

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2234641008 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 12/12/2022 09:26 AM Pg: 1 of 35

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN:** 13-16-418-004-0000

Address:

Street: 5007 West Berteau Avenue

Street line 2:

City: chicago

State: IL

ZIP Code: 60641

Lender: FTF Lending, LLC

Borrower: EMCEE List, Inc.

Loan / Mortgage Amount: \$289,000.00

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

Certificate number: 9AA33DEE-442F-4963-8929-FA4A2FCB214A

Execution date: 11/30/2022

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Emcore List Inc., a California Corporation
(Borrower and Mortgagor)

to

FTF Lending, LLC, a Delaware Limited Liability Company
(Lender and Mortgagee)

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

Date

November 30, 2022

Property

Address

5007 West Berteau Avenue,
Chicago, IL 60641

Parcel ID

13-16-418-004-0000

County

Cook

PREPARED BY AND RETURN TO:

Carrie Ann Jesse, Esq.

Fund That Flip

1300 E 9th Street, Suite 800, Cleveland, OH 44114

Loan: FTF_131626_67775

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Mortgagor: Emcee List Inc., a California Corporation
Loan: FTF_131626_67775

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

THE MAXIMUM PRINCIPAL AMOUNT SECURED HEREUNDER IS \$289,000.00.

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, FIXTURE FILING, AND SECURITY AGREEMENT (the "Mortgage") is made and entered on November 30, 2022, by and between Emcee List Inc., a California Corporation ("Mortgagor" and sometimes "Borrower"), having its principal place of business and for purposes of notice and legal process at 2501 Chatham Road, Suite N, Springfield, IL 62704, and FTF Lending, LLC, a Delaware Limited Liability Company ("Mortgagee" and sometimes "Lender"), having a principal place of business and for purposes of notice and legal process at 1300 E 9th Street, Suite 800, Cleveland, OH 44114.

WITNESSETH:

To secure the payment of an indebtedness in the principal sum of \$289,000.00, lawful money of the United States of America, to be paid with interest according to a certain promissory note dated of even date herewith made by Mortgagor to Mortgagee (the promissory note together with all extensions, renewals or modifications thereof being hereinafter collectively called the "Note") (said indebtedness, interest and all other sums due hereunder and under the Note being collectively called the "Debt"), Mortgagor has mortgaged, given, granted, bargained, sold, conveyed, assigned, transferred, pledged, set over, and hypothecated and by these presents does mortgage, give, grant, bargain, sell, convey, assign, transfer, confirm, pledge, sets over and hypothecate unto Mortgagee that certain real property situated in the County of Cook, State of Illinois, more commonly known 5007 West Berteau Avenue, Chicago, IL 60641, and more fully described in Exhibit A attached hereto (individually and collectively, the "Premises") and the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (the "Improvements"); and

TOGETHER WITH: all right, title, interest and estate of Mortgagor now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the Improvements together with the following property, rights, interests and estates being hereinafter collectively referred to as the "Mortgaged Property"):

- a. all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof and all the estates, rights, titles, interests, dower

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and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto; and

- b. all machinery, equipment, fixtures (including but not limited to all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively called the "Equipment"), and the right, title and interest of Mortgagor in and to any of the Equipment which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Mortgaged Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Mortgage; and
- c. all awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Mortgaged Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of said right), or for a change of grade, or for any other injury to or decrease in the value of the Mortgaged Property; and
- d. all leases and other agreements affecting the use, enjoyment or occupancy of the Premises and the Improvements heretofore or hereafter entered into (the "Leases") and all rents, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Premises and the Improvements (the "Rents") and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt; and
- e. all proceeds of and any unearned premiums on any insurance policies covering the Mortgaged Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Mortgaged Property; and
- f. the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to

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commence any action or proceeding to protect the interest of Mortgagee in the Mortgaged Property; and

TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto and to the use and benefit of Mortgagee, and the successors and assigns of Mortgagee, forever; and

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay to Mortgagee the Debt at the time and in the manner provided in the Note and this Mortgage and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Mortgagee as follows:

1. Payment of Debt and Incorporation of Covenants, Conditions and Agreements. Mortgagor will pay the Debt at the time and in the manner provided in the Note and in this Mortgage. All the covenants, conditions and agreements contained in (a) the Note and (b) all and any of the documents other than the Note or this Mortgage, now or hereafter executed by Mortgagor and/or others and by or in favor of Mortgagee, including any guaranty of the Loan (each such guaranty being referred to herein, individually and collectively, together with all extensions, renewals, modifications, substitutions and amendments thereof, as the "Guaranty") which wholly or partially secure or guaranty payment of the Note (the "Other Security Documents") are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein.
2. Warranty of Title. Mortgagor warrants that Mortgagor has good title to the Mortgaged Property and has the right to mortgage, give, grant, bargain, sell, assign, transfer, convey, confirm, pledge, set over and hypothecate the same and that Mortgagor possesses an unencumbered fee estate in the Premises and the Improvements and that it owns the Mortgaged Property free and clear of all liens, encumbrances and charges whatsoever except for those exceptions shown in the title insurance policy insuring the lien of this Mortgage. Mortgagor shall forever warrant, defend and preserve such title and the validity and priority of the lien of this Mortgage and shall forever warrant and defend the same to Mortgagee against the claims of all persons whomsoever.
3. Insurance.
 - 3.1. Mortgagor will keep the Mortgaged Property insured against loss or damage by fire, flood and such other hazards, risks and matters, including without limitation, (i) "All Risk" fire and extended coverage hazard insurance (non-reporting Commercial Property Policy with Special Cause of Loss form) covering the Mortgaged Property in an aggregate amount not less than 100.00% of the agreed

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upon full insurable replacement value of the Mortgaged Property and naming Mortgagee, its successors and assigns as their interests may appear, as the first mortgagee under a standard mortgagee endorsement clause; (ii) comprehensive general public liability insurance covering injury and damage to persons and property with limits reasonably acceptable to Mortgagee and naming Mortgagee, its successors and assigns as their interests may appear, as an additional insured; (iii) if the Mortgaged Property is located within a "special flood hazard area" as identified by the Secretary of Housing and Urban Development under the National Flood Insurance Reform Act of 1994, flood insurance in the amount equal to the lesser of (A) the agreed upon full insurable replacement value of the Mortgaged Property (less any value attributable to the Property), or (B) the maximum available amount through the Federal Flood Insurance Program, and naming Mortgagee, its successors and assigns as their interests may appear, as the first mortgagee under a standard mortgagee endorsement clause; (iv) insurance which complies with the workers' compensation and employers liability laws of all states in which Mortgagor shall be required to maintain such insurance; and (v) such other insurance as Mortgagee may reasonably require from time to time in amounts and with carriers reasonably satisfactory to Mortgagee, all of the foregoing without exclusion for acts of terrorism. All of the policies required hereunder (the "Policies") shall (i) be assigned and delivered to Mortgagee; (ii) include a provision that such Policy will not be cancelled, altered or in any way limited in coverage or reduced in amount unless Mortgagee is notified in writing at least 30 days prior to such cancellation or change (and Mortgagor will deliver evidence satisfactory to Mortgagee of the renewal of each of the Policies not later than 15 days prior to the expiration date of same); (iii) contain a mortgagee non contribution clause naming Mortgagee as the person to which all payments made by such insurance company shall be paid; and (iv) be written on such forms as are reasonably acceptable to Mortgagee by insurance companies authorized or licensed to do business in the state in which the Mortgaged Property is located having an Alfred M. Best Company, Inc. rating of "A" or higher and a financial size category of not less than IX. Mortgagor shall pay the premiums for such insurance (the "Insurance Premiums") as the same become due and payable.

- 3.2. If the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Mortgagor shall give prompt notice thereof to Mortgagee. Sums paid to Mortgagee by any insurer may be retained and applied by Mortgagee, after deduction of Mortgagee's reasonable costs and expenses of collection, toward payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper or, at the discretion of Mortgagee, either in whole or in part, to Mortgagor for such purposes as Mortgagee shall designate; provided that, so long as no Event of Default (as hereinafter defined) has occurred and is continuing, any such proceeds which are not in excess of \$5,000.00 shall be disbursed directly to

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Mortgagor to be applied towards the cost of the repair or restoration of the Mortgaged Property.

4. **Payment of Taxes, Etc.** Mortgagor shall pay all taxes, assessments, water rates and sewer rents, now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (the "**Taxes**") and all ground rents, maintenance charges, other governmental impositions, and other charges, including without limitation vault charges and license fees for the use of vaults, chutes and similar areas adjoining the Premises, now or hereafter levied or assessed or imposed against the Mortgaged Property or any part thereof (the "**Other Charges**") as same become due and payable; provided that, Mortgagor shall not be required to pay such Taxes or Other Charges if the validity or amount thereof shall currently be contested in good faith by appropriate proceedings and, in such event, Mortgagor has set aside on their books, adequate reserves with respect thereto. Mortgagor will deliver to Mortgagee, promptly upon Mortgagee's request, evidence satisfactory to Mortgagee that the Taxes and Other Charges have been so paid or are not then delinquent. Other than liens or charges which are being contested in good faith by appropriate legal proceedings, Mortgagor shall not suffer and shall promptly cause to be paid and discharged any lien or charge whatsoever which may be or become a lien or charge against the Mortgaged Property, and shall promptly pay for all utility services provided to the Mortgaged Property. Upon request, Mortgagor shall furnish to Mortgagee receipts for the payment of the Taxes, Other Charges and said utility services prior to the date the same shall become delinquent.
5. **Escrow Fund.** Mortgagor shall, at the option of Mortgagee, pay to Mortgagee on the first day of each calendar month (a) one-twelfth of an amount which would be sufficient to pay the Taxes payable, or estimated by Mortgagee to be payable, during the next ensuing 12 months and (b) one-twelfth of an amount which would be sufficient to pay the Insurance Premiums due for the renewal of the coverage afforded by the Policies upon the expiration thereof (said amounts in (a) and (b) above hereinafter called the "**Escrow Fund**"). The Escrow Fund and the payments of interest or principal or both, payable pursuant to the Note shall be added together and shall be paid as an aggregate sum by Mortgagor to Mortgagee. Mortgagor hereby pledges to Mortgagee any and all monies now or hereafter deposited in the Escrow Fund as additional security for the payment of the Debt. Mortgagee will apply the Escrow Fund to payments of Taxes and Insurance Premiums required to be made by Mortgagor pursuant to Paragraphs 3 and 4 hereof. If the amount of the Escrow Fund shall exceed the amounts due for Taxes and Insurance Premiums pursuant to Paragraphs 3 and 4 hereof, Mortgagee shall, in its discretion, return any excess to Mortgagor or credit such excess against future payments to be made to the Escrow Fund. In allocating such excess, Mortgagee may deal with the person shown on the records of Mortgagee to be the owner of the Mortgaged Property. If the Escrow Fund is not sufficient to pay the items set forth in (a) and (b) above, Mortgagor shall promptly pay to Mortgagee, upon demand, an amount which Mortgagee shall estimate as sufficient to make up the deficiency. Upon the occurrence of an Event of Default (hereinafter defined), Mortgagee

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may apply any sums then present in the Escrow Fund to the payment of the following items in any order in its uncontrolled discretion:

- 5.1. Taxes and Other Charges; or
- 5.2. Insurance Premiums; or
- 5.3. Interest on the unpaid principal balance of the Note; or
- 5.4. Amortization of the unpaid principal balance of the Note; or
- 5.5. All other sums payable pursuant to the Note, this Mortgage and the Other Security Documents, including without limitation advances made by Mortgagee pursuant to the terms of this Mortgage.

Until expended or applied as above provided, any amounts in the Escrow Fund shall constitute additional security for the Debt. The Escrow Fund shall not constitute a trust fund and may be commingled with other monies held by Mortgagee. No earnings or interest on the Escrow Fund shall be payable to Mortgagor.

6. Condemnation. Mortgagor shall promptly give Mortgagee notice of the actual or threatened commencement of any condemnation or eminent domain proceeding and shall deliver to Mortgagee copies of any and all papers served in connection with such proceedings. Notwithstanding any taking by any public or quasi-public authority through eminent domain or otherwise (including but not limited to any transfer made in lieu of or in anticipation of the exercise of such taking), Mortgagor shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Mortgage and the Debt shall not be reduced until any award or payment therefor shall have been actually received and applied by Mortgagee, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Mortgagee shall not be limited to the interest paid on the award by the condemning authority but shall be entitled to receive out of the award interest at the rate or rates provided herein and in the Note. Mortgagee may apply any such award or payment to the reduction or discharge of the Debt whether or not then due and payable. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by Mortgagee of such award or payment, Mortgagee shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive said award or payment, or a portion thereof sufficient to pay the Debt.
7. Leases and Rents. Mortgagee is hereby granted and assigned by Mortgagor the right to enter the Mortgaged Property for the purpose of enforcing its interest in the Leases and the Rents, this Mortgage constituting a present, absolute assignment of the Leases and the Rents. Nevertheless, subject to the terms of this Paragraph 7, Mortgagee grants to Mortgagor a revocable license to operate and manage the Mortgaged Property and to

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collect the Rents. Mortgagor shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums. Upon or at any time after an Event of Default, the license granted to Mortgagor herein may be revoked by Mortgagee, and Mortgagee may enter upon the Mortgaged Property, and collect, retain and apply the Rents toward payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper.

8. **Maintenance of Mortgaged Property.** Mortgagor shall cause the Mortgaged Property to be maintained in a good and safe condition and repair. The Improvements and the Equipment shall not be removed, demolished or materially altered (except for normal replacement of the Equipment; the construction of the planned improvements at the Mortgaged Property, as more fully provided in the Escrow Letter Agreement and the other Loan Documents) without the consent of Mortgagee. Mortgagor shall promptly comply, in all material respects, with all laws, orders and ordinances affecting the Mortgaged Property, or the use thereof. Mortgagor shall promptly repair, replace or rebuild any part of the Mortgaged Property which may be destroyed by any casualty, or become damaged, worn or dilapidated or which may be affected by any proceeding of the character referred to in Paragraph 6 hereof and shall complete and pay for any structure at any time in the process of construction or repair on the Premises; provided that, with respect to any casualty or condemnation, the insurance proceeds or condemnation award, as applicable, shall be made available to Mortgagor for such restoration. Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Mortgaged Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Mortgaged Property is or shall become a nonconforming use, Mortgagor will not cause or permit such nonconforming use to be discontinued or abandoned without the express written consent of Mortgagee.

9. **Transfer or Encumbrance of the Mortgaged Property.**

- 9.1. Mortgagor acknowledges that Mortgagee has examined and relied on the creditworthiness of Mortgagor and experience of Mortgagor in owning and operating properties such as the Mortgaged Property in agreeing to make the loan secured hereby, and that Mortgagee will continue to rely on Mortgagor's ownership of the Mortgaged Property as a means of maintaining the value of the Mortgaged Property as security for repayment of the Debt. Mortgagor acknowledges that Mortgagee has a valid interest in maintaining the value of the Mortgaged Property so as to ensure that, should Mortgagor default in the repayment of the Debt, Mortgagee can recover the Debt by a sale of the Mortgaged Property. Mortgagor shall not, without the prior written consent of Mortgagee, sell, convey, alien, mortgage, encumber, pledge or otherwise transfer the Mortgaged Property or any part thereof or permit the Mortgaged Property or any part thereof to be sold, conveyed, aliened, mortgaged, encumbered, pledged or otherwise transferred.

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- 9.2. A sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer within the meaning of this Paragraph 9 shall be deemed to include (i) an installment sales agreement wherein Mortgagor agrees to sell the Mortgaged Property or any part thereof for a price to be paid in installments; (ii) an agreement by Mortgagor leasing all or a substantial part of the Mortgaged Property for other than actual occupancy by a space tenant thereunder or a sale, assignment or other transfer of, or the grant of a security interest in, Mortgagor's right, title and interest in and to any Leases or any Rents; (iii) if Mortgagor, any Guarantor (hereinafter defined), or any general partner or managing member (or if no managing member, any member) of Mortgagor or Guarantor is a corporation, the voluntary or involuntary sale, conveyance or transfer of such corporation's stock (or the stock of any corporation directly or indirectly controlling such corporation by operation of law or otherwise) or the creation or issuance of new stock by which an aggregate of more than 10.000% of such corporation's stock shall be vested in a party or parties who are not now stockholders; (iv) if Mortgagor, any Guarantor or any general partner or managing member (or if no managing member, any member) of Mortgagor or any Guarantor is a limited or general partnership or joint venture, the change, removal or resignation of a general partner or managing partner or the transfer of the partnership interest of any general partner or managing partner; and (v) if Mortgagor, any Guarantor, any general partner of Mortgagor or of any Guarantor, any managing member (or if no managing member, any member) of Mortgagor or of any Guarantor or of any general partner or managing member (or if no managing member, any member) of Mortgagor or of any Guarantor is a limited liability company, the change, removal or resignation of any member thereof or the transfer of the membership interest of any member.
- 9.3. Mortgagee reserves the right to condition the consent required hereunder upon a modification of the terms hereof and on assumption of this Mortgage as so modified by the proposed transferee, payment of a transfer fee, or such other conditions as Mortgagee shall determine in its sole discretion to be in the interest of Mortgagee. Mortgagee shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Mortgagor's sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property without Mortgagee's consent. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property regardless of whether voluntary or not, or whether or not Mortgagee has consented to any previous sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Mortgaged Property.

10. Estoppel Certificates.

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- 10.1. After request by Mortgagee, Mortgagor, within 10 days, shall furnish Mortgagee with a statement, duly acknowledged and certified, setting forth (i) the amount of the original principal amount of the Note, (ii) the unpaid principal amount of the Note, (iii) the rate of interest of the Note, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note and this Mortgage are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.
- 10.2. After request by Mortgagee, Mortgagor, within 10 days, will furnish Mortgagee with estoppel certificates from any lessees under the Leases as required by their respective Leases; provided, however, that, in the event Mortgagor is unable to deliver the estoppel certificates within the aforementioned 10 day period, so long as Mortgagee is acting in good faith, and is making a diligent effort to obtain the estoppel certificates, such 10 day period shall be extended for such time as is reasonably necessary for Mortgagor to furnish Mortgagee with the estoppel certificates, such additional period not to exceed 20 days.
- 10.3. Notwithstanding anything contained in this Section to the contrary, Mortgagor, within 10 days of the signing of any new Lease, will furnish Mortgagee with the estoppel certificate as provided in Section 10(b) hereof from the lessee under any such Lease.
11. Changes in the Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Mortgaged Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Mortgagee's interest in the Mortgaged Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. In the event Mortgagee is advised by counsel chosen by it that the payment of such tax or interest and penalties by Mortgagor would be unlawful or taxable to Mortgagee or unenforceable or provide the basis for a defense of usury, then in any such event, Mortgagee shall have the option, by written notice of not less than 90 days, to declare the Debt immediately due and payable.
12. No Credits on Account of the Debt. Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Mortgaged Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Mortgaged Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. In the event such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by written notice of not less than 90 days, to declare the Debt immediately due and payable.

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13. **Documentary Stamps.** If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note or this Mortgage, or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any.
14. **Usury Laws.** This Mortgage and the Note are subject to the express condition that at no time shall Mortgagor be obligated or required to pay interest on the Debt at a rate which could subject the holder of the Note to either civil or criminal liability as a result of being in excess of the maximum interest rate which Mortgagor is permitted by applicable law to contract or agree to pay. If by the terms of this Mortgage or the Note, Mortgagor is at any time required or obligated to pay interest on the Debt at a rate in excess of such maximum rate, the rate of interest under the same shall be deemed to be immediately reduced to such maximum rate and the interest payable shall be computed at such maximum rate and all prior interest payments in excess of such maximum rate shall be applied and shall be deemed to have been payments in reduction of the principal balance of the Note.
15. **Books and Records.** Mortgagor and Guarantor, if any, shall keep adequate books and records of account in accordance with generally accepted accounting practices consistently applied, and, upon reasonable request therefor, furnish, or cause to be furnished, to Mortgagee: (a) within 120 days after the end of each calendar year, an annual operating statement of the Mortgaged Property detailing the total revenues received and total expenses incurred to be prepared and certified by Mortgagor; (b) within 120 days after the end of each calendar year, an annual balance sheet and profit and loss statement and statement of global cash flow of Mortgagor, prepared on a federal income tax reporting basis; (c) the personal financial statement(s) of Juan C. Serrano Reyes aka Juan Charlie Reyes, (individually and/or collectively, the "Guarantor"), on a form approved by Mortgagee, which shall be provided within 14 months of the date of the most recent statements delivered to Lender; (d) within 30 days after filing, (i) the individual federal income tax returns for Guarantor, (ii) the business or corporate federal income tax returns for Mortgagor, and (iii) Mortgagor's federal income tax return; provided, however, in the event that the Mortgagor file for an extension of time to file such tax return, copies of any such filed extensions within 15 days of filing of the same, and (e) such annual balance sheets, profit and loss statements and other financial statements as may, from time to time, be required by Mortgagee.
16. **Performance of Other Agreements.** Mortgagor shall observe and perform in all material respects each and every term to be observed or performed by Mortgagor pursuant to the terms of any agreement or recorded instrument affecting or pertaining to the Mortgaged Property.
17. **Further Acts, Etc.** Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as

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Mortgagee shall, from time to time, require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the property and rights hereby mortgaged, given, granted, bargained, sold, assigned, transferred, conveyed, confirmed, pledged, set over and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage. Mortgagor, on demand, will execute and deliver and hereby authorizes Mortgagee to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so, one or more financing statements, chattel mortgages or other instruments, to evidence more effectively the security interest of Mortgagee in the Mortgaged Property. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including without limitation such rights and remedies available to Mortgagee pursuant to this Paragraph 17.

18. Recording of Mortgage, Etc. Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage, and any security instrument creating a lien or security interest or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Mortgagee in, the Mortgaged Property. Mortgagor will pay all filing, registration or recording fees, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property and any instrument of further assurance, and all federal, state, county and municipal, taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgaged Property or any instrument of further assurance, except where prohibited by law so to do. Mortgagor shall hold harmless and indemnify Mortgagee, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making and recording of this Mortgage.
19. Prepayment. If permitted by the Note, the Debt may be prepaid in accordance with the terms thereof.
20. Events of Default.
- 20.1. The Debt shall become immediately due and payable at the option of Mortgagee upon the occurrence of an Event of Default, as such term is defined in the Note ("Event of Default") or if for more than 30 days after written notice from Mortgagee, Mortgagor shall continue to be in default under any other term,

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covenant or condition of the Note, this Mortgage or the Other Security Documents; provided, however, that if such default is susceptible of cure but cannot reasonably be cured within such 30 day period, and provided further that Mortgagor shall have commenced to cure such default within such 30 day period and thereafter diligently and expeditiously proceeds to cure the same, such 30 day period shall be extended for such time as is reasonably necessary for Mortgagor in the exercise of due diligence to cure such default, such additional period not to exceed 60 days.

20.2. **Construction Defaults.** Borrower's failure to meet the following requirements within 30 days of Lender providing written notice to Borrower of Borrower's failure to comply shall be an additional Event of Default under this Mortgage:

20.2.1. Borrower shall comply with all Action Items required by Lender to the satisfaction of Lender in Lender's sole and absolute discretion. The term "Action Items" as used herein shall mean actions that Lender, in Lender's sole and absolute discretion, has determined Borrower shall take to ensure that the construction on the Property is being conducted and completed to the satisfaction of Lender. Lender may inspect the Property at any time and require Borrower to remediate construction if any work performed at the Property is considered substandard by Lender in Lender's absolute discretion. The failure to complete any additional work required by Lender upon inspection of the Property within 30 days' notice by Lender or its agents to Borrower shall be considered an additional Event of Default under this Agreement.

20.2.2. Borrower shall not permit cessation of construction for a period in excess, in the aggregate, of 30 calendar days for any reason. Notwithstanding the foregoing, this 30 calendar-day period shall be extended, but only up to an aggregate maximum of 90 days not to exceed the Maturity Date in any event, for any delays that are beyond the control of Borrower, including delays caused by strikes, acts of God, weather, inability to obtain labor or materials, inability to obtain governmental permits or approvals, governmental restrictions, civil commotion, fire, or similar causes ("Unavoidable Delay") (but excluding financial circumstances or events that may be resolved by the payment of money), and provided Borrower has notified Lender of such delay within 10 days of its occurrence, and provided that no Unavoidable Delay shall (i) suspend or otherwise abate any obligation of Borrower to pay any sum of money, including principal and interest, under the Loan Documents, (ii) suspend or abate any other obligation of Borrower under the Loan Documents, or (iii) extend the Scheduled Completion Date or the Maturity Date.

21. Remedies of Mortgagee.

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- 21.1. Upon the occurrence and during the continuance of any Event of Default, Mortgagor will pay, from the date of that Event of Default, interest on the unpaid principal balance of the Note at the Default Rate set forth in the Note (the "Default Rate") and Mortgagee shall have the right to exercise any and all rights and remedies available at law and in equity under this Mortgage, including, but not limited to, the following actions (and any other remedies set forth elsewhere in this Mortgage), each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:
- 21.1.1. declare the entire unpaid Debt, less any amounts held by Lender pursuant to the Escrow Letter Agreement, to be immediately due and payable (provided that upon the occurrence of an Event of Default described in Section 6.1 of the Note, the Debt, less any amounts held by Lender pursuant to the Escrow Letter Agreement, shall immediately and automatically become due and payable); or
 - 21.1.2. institute proceedings, judicial or otherwise, for the complete foreclosure of this Mortgage under any applicable provision of law; or
 - 21.1.3. with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Debt not then due, unimpaired and without loss of priority; or
 - 21.1.4. sell for cash or upon credit the Mortgaged Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law; or
 - 21.1.5. institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note or in the Other Security Documents; or
 - 21.1.6. recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the Other Security Documents; or
 - 21.1.7. subject to any applicable law, the license granted to Mortgagor under Section 7 shall automatically be revoked and Mortgagee may enter into or

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upon the Mortgaged Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Mortgaged Property and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may (1) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct the business thereat; (2) complete any construction on the Mortgaged Property in such manner and form as Mortgagee deems advisable; (3) make alterations, additions, renewals, replacements and improvements to or on the Mortgaged Property; (4) exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Mortgaged Property and every part thereof; (5) require Mortgagor to vacate and surrender possession of the Mortgaged Property to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and (6) apply the receipts from the Mortgaged Property to the payment of the Debt, in such order, priority and proportions as Mortgagee shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorney's fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees; or

- 21.1.8. apply any sums then deposited in the Escrow Fund and any other sums held in escrow or otherwise by Mortgagee in accordance with the terms of this Mortgage or any Other Security Document to the payment of the following items in any order in its sole discretion: (1) Taxes and Other Charges; (2) Insurance Premiums; (3) mortgaged Lease Rents; (4) interest on the unpaid principal balance of the Note; (5) amortization of the unpaid principal balance of the Note; (6) all other sums payable pursuant to the Note, this Mortgage and the Other Security Documents, including without limitation advances made by Mortgagee pursuant to the terms of this Mortgage; or
- 21.1.9. surrender the Policies, collect the unearned Insurance Premiums, and apply such sums as a credit on the Debt in such priority and proportion as Mortgagee in its discretion shall deem proper, and in connection therewith, Mortgagor hereby appoints Mortgagee as agent and attorney-in-fact (which

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is coupled with an interest and is therefore irrevocable) for Mortgagor to collect such Insurance Premiums.

In the event of a sale, by foreclosure, power of sale, or otherwise, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien and security interest on the remaining portion of the Mortgaged Property unimpaired and without loss of priority.

- 21.2. The purchase money, proceeds and avails of any disposition of the Mortgaged Property, or any part thereof, or any other sums collected by Mortgagee pursuant to the Note, this Mortgage or the Other Security Documents, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper.
- 21.3. The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (A) the failure of Mortgagee to comply with any request of Mortgagor, any Guarantor or any indemnitor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the Other Security Documents, (B) the release, regardless of consideration, of the whole or any part of the Mortgaged Property, or of any person liable for the Debt or any portion thereof, or (C) agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the Other Security Documents.
- 21.4. It is agreed that the risk of loss or damage to the Mortgaged Property is on Mortgagor, and Mortgagee shall have no liability whatsoever for decline in value of the Mortgaged Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Mortgagee shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Mortgaged Property or collateral not in Mortgagee's possession.
- 21.5. Mortgagee may resort for the payment of the Debt to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage. The rights of Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Mortgagee shall

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not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

- 21.6. Mortgagee may release any portion of the Mortgaged Property for such consideration as Mortgagee may require without, as to the remainder of the Mortgaged Property, 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 hereunder shall have been reduced by the actual monetary consideration, if any, received by Mortgagee for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Mortgagee may require without being accountable for so doing to any other lienholder. This Mortgage shall continue as a lien and security interest in the remaining portion of the Mortgaged Property.
- 21.7. If the Mortgaged Property is not in compliance with applicable laws, Mortgagee may impose additional requirements upon Mortgagor in connection herewith including, without limitation, monetary reserves or financial equivalents.
- 21.8. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Mortgaged Property, then, to the extent of the funds so used, Mortgagee shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Mortgaged Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Mortgagee and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Mortgagor's obligations hereunder, under the Note and the Other Security Documents.
22. Sale of Mortgaged Property. If this Mortgage is foreclosed, the Mortgaged Property, or any interest therein, may at the discretion of Mortgagee, be sold in one or more parcels or in several interests or portions and in any order or manner.
23. Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default or if Mortgagor fails to make any payment or to do any act as herein provided, subject to any applicable notice and cure periods provided herein or in any other Loan Document, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee is authorized to enter upon the Mortgaged Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent

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permitted by law), with interest as provided in this Paragraph 23, shall constitute a portion of the Debt and shall be due and payable to Mortgagee upon demand. All such costs and expenses incurred by Mortgagee in remedying such Event of Default or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee. All such costs and expenses incurred by Mortgagee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Mortgage and the Other Security Documents and shall be immediately due and payable upon demand by Mortgagee therefor.

24. Late Payment Charge. If any portion of the Debt is not paid within 10 days after the date on which it is due, Mortgagor shall pay to Mortgagee upon demand an amount referenced in the Note signed on the date simultaneously herewith.
25. Prepayment After Event of Default. If following the occurrence of any Event of Default, Mortgagor shall tender payment of an amount sufficient to satisfy the Debt in whole or in part at any time prior to a foreclosure sale of the Mortgaged Property, and if at the time of such tender prepayment of the principal balance of the Note is not permitted by the Note, Mortgagor shall, in addition to the entire Debt, also pay to Mortgagee a sum equal to interest which would have accrued on the principal balance of the Note at the Applicable Interest Rate as defined in the Note from the date of such tender to the earlier of (i) the Maturity Date as defined in the Note or to (ii) the first day of the period during which prepayment of the principal balance of the Note would have been permitted together with a prepayment consideration equal to the prepayment consideration which would have been payable as of the first day of the period during which prepayment would have been permitted. If at the time of such tender prepayment of the principal balance of the Note is permitted, such tender by Mortgagor shall be deemed to be a voluntary prepayment of the principal balance of the Note, and Mortgagor shall, in addition to the entire Debt, also pay to Mortgagee the applicable prepayment consideration specified in the Note and this Mortgage.
26. Right of Entry. Mortgagee and its agents shall have the right to enter and inspect the Mortgaged Property at all reasonable times, and in accordance with the applicable provisions hereof.
27. Mortgagee in Possession and Appointment of Receiver. The holder of this Mortgage, upon the occurrence of an Event of Default or in any action to foreclose this Mortgage or upon the actual or threatened waste to any part of the Mortgaged Property, shall have the right to be placed as mortgagee in possession or be entitled to the appointment of a receiver to take possession of all or any part of the Mortgaged Property, with the power to protect and preserve the Mortgage Property, to operate the Mortgaged Property preceding foreclosure sale, and to collect the rents from the Mortgaged Property and apply the proceeds, over and above the cost of the receivership, against the Debt, with or without notice and without

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regard to the value of the Mortgaged Property as security for the Debt, or the solvency or insolvency of any person liable for the payment of the Debt. The mortgagee in possession or receiver may serve without bond if permitted by law. Employment by Mortgagee shall not disqualify a person from serving as a receiver. Any receiver appointed pursuant to this Mortgage or Loan Documents shall have all rights of a receiver under Illinois law.

28. **Reasonable Use and Occupancy.** In addition to the rights which Mortgagee may have herein, upon the occurrence and during the continuance of any Event of Default, Mortgagee may require Mortgagor to vacate and surrender possession of the Mortgaged Property to Mortgagee or any receiver appointed with respect to the Mortgaged Property and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise.
29. **Security Agreement.** This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Mortgagee, as security for the Debt, a security interest in the Mortgaged Property to the full extent that the Mortgaged Property may be subject to the Uniform Commercial Code (said portion of the Mortgaged Property so subject to the Uniform Commercial Code being called in this Paragraph 29 the "**Collateral**"). If an Event of Default shall occur and be continuing, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee, Mortgagor shall at its expense assemble the Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Mortgagor shall pay to Mortgagee on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Mortgagee in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least 5 days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper. Inasmuch as the parties intend that this Mortgage shall, among other things, constitute a financing statement, Borrower sets forth the following:

- 29.1. The Debtor is Emcee List Inc., a California Corporation, with an address of 2501 Chatham Road, Suite N, Springfield, IL 62704; and

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- 29.2. The Secured Party is FTF Lending, LLC, a Delaware Limited Liability Company, with an address of 1300 E 9th Street, Suite 800, Cleveland, OH 44114; and
- 29.3. The Collateral includes Fixtures that are or shall be affixed to the Real Estate.
30. Actions and Proceedings. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Mortgaged Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Mortgagee, in its discretion, decides should be brought to protect its interest in the Mortgaged Property.
31. Waiver of Counterclaim. Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Mortgagee, and waives trial by jury in any action or proceeding brought by either party hereto against the other or in any counterclaim asserted by Mortgagee against Mortgagor, or in any matters whatsoever arising out of or in any way connected with this Mortgage, the Note, any of the Other Security Documents or the Debt.
32. Recovery of Sums Required to Be Paid. Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.
33. Marshalling and Other Matters. Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Mortgaged Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law.
34. Hazardous Materials. Mortgagor represents and warrants that, to the best of Mortgagor's knowledge, after due inquiry and investigation, except as otherwise specifically disclosed or known to Mortgagee, (a) there are no Hazardous Materials (hereinafter defined) on the Mortgaged Property, except those in compliance with all applicable federal, state and local laws, ordinances, rules and regulations, and (b) Mortgagor has not received any notice or violation from any governmental agency or any source whatsoever with respect to Hazardous Materials on, from or affecting the Mortgaged Property. Mortgagor covenants that the Mortgaged Property shall be kept free of Hazardous Materials, and neither Mortgagor nor any occupant of the Mortgaged Property shall use, transport, store, dispose

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of or in any manner deal with Hazardous Materials on the Mortgaged Property, except in compliance with all applicable federal, state and local laws, ordinances, rules and regulations. Mortgagor shall comply with, and ensure compliance by all occupants of the Mortgaged Property with all applicable federal, state and local laws, ordinances, rules and regulations, in each case, in all material respects, and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to such laws, ordinances, rules or regulations. In the event that Mortgagor receives any notice or violation from any governmental agency or any source whatsoever with respect to Hazardous Materials on, from or affecting the Mortgaged Property, Mortgagor shall immediately notify Mortgagee. Mortgagor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial actions necessary to clean up and remove all Hazardous Materials from the Mortgaged Property in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations. The term "Hazardous Materials" as used in this Mortgage shall include, without limitation, gasoline, petroleum products, explosives, radioactive materials, polychlorinated biphenyls or related or similar materials, or any other substance or material defined as a hazardous or toxic substance or material by any federal, state or local law, ordinance, rule, or regulation, but excluding Asbestos, as defined in Paragraph 35 hereof. The obligations and liabilities of Mortgagor under this Paragraph 34 shall survive any entry of a judgment of foreclosure or the delivery of a deed in lieu of foreclosure of this Mortgage.

35. Asbestos. Mortgagor represents and warrants that, to the best of Mortgagor's knowledge, after due inquiry and investigation, that there is no asbestos or material containing asbestos ("Asbestos") on the Mortgaged Property, and that Mortgagor has not received any notice or violation from any governmental agency or any source whatsoever with respect to Asbestos on, affecting or installed on the Mortgaged Property. Mortgagor covenants that the Mortgaged Property shall be kept free of Asbestos, and neither Mortgagor nor any occupant of the Mortgaged Property shall install, or permit to be installed, Asbestos on the Mortgaged Property. Mortgagor shall comply with, and ensure compliance by all occupants of the Mortgaged Property, in each case, in all material respects, with, all applicable federal, state and local laws, ordinances, rules and regulations with respect to Asbestos, and shall keep the Mortgaged Property free and clear of any liens imposed pursuant to such laws, ordinances, rules or regulations. In the event that Mortgagor receives any notice or violation from any governmental agency or any source whatsoever with respect to Asbestos on, affecting or installed on the Mortgaged Property, Mortgagor shall immediately notify Mortgagee. Mortgagor shall conduct and complete all investigations, studies, sampling, and testing, and all remedial actions necessary to clean up and remove all Asbestos from the Mortgaged Property in accordance with all applicable federal, state and local laws, ordinances, rules and regulations. The obligations and liabilities of Mortgagor under this Paragraph 35 shall survive any entry of a judgment of foreclosure or delivery of a deed in lieu of foreclosure of this Mortgage.

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36. **Indemnification.** Mortgagor shall protect, defend, indemnify and save harmless Mortgagee from and against all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including without limitation reasonable attorneys' fees and expenses), imposed upon or incurred by or asserted against Mortgagee, except to the extent resulting from Mortgagee's gross negligence or willful misconduct, by reason of (a) ownership of this Mortgage, the Mortgaged Property or any interest therein or receipt of any Rents; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) any use, nonuse or condition in, on or about the Mortgaged Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (d) any failure on the part of Mortgagor to perform or comply with any of the terms of this Mortgage; (e) performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof; (f) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with the Mortgage, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Mortgage is made; (g) the presence, disposal, escape, seepage, leakage, spillage, discharge, emission, release, or threatened release of any Hazardous Materials on, from, or affecting the Mortgaged Property or any other property or the presence of Asbestos on the Mortgaged Property; (h) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials or Asbestos; (i) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials or Asbestos; or (j) any violation of laws, orders, regulations, requirements, or demands of government authorities, which are based upon or in any way related to such Hazardous Materials or Asbestos including, without limitation, the costs and expenses of any remedial action, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. Any amounts payable to Mortgagee by reason of the application of this Paragraph 36 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Mortgagee until paid. The obligations and liabilities of Mortgagor under this Paragraph 36 shall survive any termination, satisfaction, assignment, entry of a judgment of foreclosure or delivery of a deed in lieu of foreclosure of this Mortgage.
37. **Notices.** Any notice, demand, statement, request or consent made hereunder shall be in writing and shall be deemed given when postmarked, addressed and mailed by first class or registered United States mail addressed to the party to be so notified at its address hereinafter set forth, or to such other address as Mortgagor or Mortgagee, as the case may be, shall in like manner designate in writing.

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37.1 If to Mortgagor:

Emcee List Inc., a California Corporation
2501 Chatham Road, Suite N, Springfield, IL 62704
Attn: Juan C. Serrano Reyes aka Juan Charlie Reyes

37.2 If to Mortgagee:

FTF Lending, LLC, a Delaware Limited Liability Company
1300 E 9th Street, Suite 800, Cleveland, OH 44114
Attn: Matthew Rodak, Chief Executive Officer

38. Authority/Patriot Act Compliance.

- 38.1. Mortgagor (and the undersigned representative of Mortgagor, if any) has full power, authority and legal right to execute this Mortgage, and to mortgage, give, grant, bargain, sell, assign, transfer, convey, confirm, pledge, set over and hypothecate and assign the Mortgaged Property pursuant to the terms hereof and to keep and observe all of the terms of this Mortgage on Mortgagor's part to be performed.
- 38.2. Mortgagor represents and warrants that Mortgagor is not a "foreign person" within the meaning of 1445(f)(3) of the Internal Revenue Code of 1986, as amended and the related Treasury Department regulations, including temporary regulations.
- 38.3. Mortgagor will use its good faith and commercially reasonable efforts to comply with the Patriot Act (as defined below) and all applicable requirements of governmental authorities having jurisdiction of the Mortgagor and the Mortgaged Property, including those relating to money laundering and terrorism. The Mortgagee shall have the right to audit the Mortgagor's compliance with the Patriot Act and all applicable requirements of governmental authorities having jurisdiction of the Mortgagor and the Mortgaged Property, including those relating to money laundering and terrorism. In the event that the Mortgagor fails to comply with the Patriot Act or any such requirements of governmental authorities, then the Mortgagee may, at its option, cause the Mortgagor to comply therewith and any and all reasonable costs and expenses incurred by the Mortgagee in connection therewith shall be secured by this Mortgage and the other Loan Documents and shall be immediately due and payable. For purposes hereof, the term "Patriot Act" means the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001, as the same may be amended from time to time, and corresponding provisions of future laws. Neither the Mortgagor nor any partner in the Mortgagor or member of such partner nor any owner of a direct or indirect interest in the Mortgagor (a) is listed on any Government Lists (as defined below), (b) is a person who has been determined by competent authority to be subject to the prohibitions contained in

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Presidential Executive Order No. 13224 (Sept. 23, 2001) or any other similar prohibitions contained in the rules and regulations of OFAC (as defined below) or in any enabling legislation or other Presidential Executive Orders in respect thereof, (c) has been previously indicted for or convicted of any felony involving a crime or crimes of moral turpitude or for any Patriot Act Offense (as defined below), or (d) is not currently under investigation by any governmental authority for alleged criminal activity. For purposes hereof, the term "Patriot Act Offense" means any violation of the criminal laws of the United States of America or of any of the several states, or that would be a criminal violation if committed within the jurisdiction of the United States of America or any of the several states, relating to terrorism or the laundering of monetary instruments, including any offense under (a) the criminal laws against terrorism; (b) the criminal laws against money laundering; (c) the Bank Secrecy Act, as amended; (d) the Money Laundering Control Act of 1986, as amended; or (e) the Patriot Act. "Patriot Act Offense" also includes the crime of conspiracy to commit, or aiding and abetting another to commit, a Patriot Act Offense. For purposes hereof, the term "Government Lists" means (i) the Specially Designated Nationals and Blocked Persons Lists maintained by Office of Foreign Assets Control ("OFAC"), (ii) any other list of terrorists, terrorist organizations or narcotics traffickers maintained pursuant to any of the Rules and Regulations of OFAC that Mortgagee notified Mortgagor in writing is now included in "Governmental Lists", or (iii) any similar lists maintained by the United States Department of State, the United States Department of Commerce or any other governmental authority or pursuant to any Executive Order of the President of the United States of America that Mortgagee notified Mortgagor in writing is now included in "Governmental Lists".

39. Waiver of Notice. Mortgagor shall not be entitled to any notices of any nature whatsoever from Mortgagee except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by Mortgagee to Mortgagor and except with respect to matters for which Mortgagee is required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor.
40. Remedies of Mortgagee. In the event that a claim or adjudication is made that Mortgagee has acted unreasonably or unreasonably delayed acting in any case where by law or under the Note, this Mortgage or the Other Security Documents, it has an obligation to act reasonably or promptly, Mortgagee shall not be liable for any monetary damages, and Mortgagor's remedies shall be limited to injunctive relief or declaratory judgment.
41. Sole Discretion of Mortgagee. Wherever pursuant to this Mortgage, Mortgagee exercises any right given to it to approve or disapprove, or any arrangement or term is to be satisfactory to Mortgagee, the decision of Mortgagee to approve or disapprove or to decide

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that arrangements or terms are satisfactory or not satisfactory shall be in the sole discretion of Mortgagee and shall be final and conclusive, except as may be otherwise expressly and specifically provided herein.

42. **Non-Waiver.** The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (a) the failure of Mortgagee to comply with any request of Mortgagor or Guarantor to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the Other Security Documents, (b) the release, regardless of consideration, of the whole or any part of the Mortgaged Property, or of any person liable for the Debt or any portion thereof; or (c) any agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the Other Security Documents. Mortgagee may resort for the payment of the Debt to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage. The rights of Mortgagee under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election or proceed under any one provision herein to the exclusion of any other provision. Mortgagee shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.
43. **No Oral Change.** This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Mortgagee, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.
44. **Liability.** If Mortgagor consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Mortgage shall be binding upon and inure to the benefit of Mortgagor and Mortgagee and their respective successors and assigns forever.
45. **Inapplicable Provisions.** If any term, covenant or condition of the Note or this Mortgage is held to be invalid, illegal or unenforceable in any respect, the Note and this Mortgage shall be construed without such provision.
46. **Headings, Etc.** The headings and captions of various paragraphs of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

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47. Duplicate Originals. This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.
48. Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Mortgaged Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of indebtedness secured by this Mortgage," the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, and any other entity, and the words "Mortgaged Property" shall include any portion of the Mortgaged Property and any interest therein. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.
49. PREJUDGMENT REMEDY WAIVER. THE MORTGAGOR ACKNOWLEDGES THAT THE LOAN EVIDENCED BY THE NOTE IS A COMMERCIAL TRANSACTION AND WAIVES ITS RIGHTS TO NOTICE AND HEARING ALLOWED BY ANY STATE OR FEDERAL LAW WITH RESPECT TO ANY PREJUDGMENT REMEDY WHICH THE MORTGAGEE MAY DESIRE TO USE, AND FURTHER, WAIVES DILIGENCE, DEMAND, PRESENTMENT FOR PAYMENT, NOTICE OF NONPAYMENT, PROTEST AND NOTICE OF PROTEST, AND NOTICE OF ANY RENEWALS OR EXTENSIONS OF THE NOTE. THE MORTGAGOR ACKNOWLEDGES THAT IT MAKES THIS WAIVER KNOWINGLY, WILLINGLY, VOLUNTARILY, WITHOUT DURESS AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS OF THIS WAIVER WITH ITS ATTORNEY. MORTGAGOR FURTHER CONSENTS TO THE ISSUANCE OF ANY SUCH PREJUDGMENT REMEDIES WITHOUT A BOND OR OTHER SECURITY AND AGREES NOT TO REQUEST OR FILE MOTIONS SEEKING TO REQUIRE THE POSTING OF A BOND IN CONNECTION WITH MORTGAGEE'S EXERCISE OF ANY PREJUDGMENT REMEDIES.
50. JURY TRIAL WAIVER. THE MORTGAGOR WAIVES TRIAL BY JURY IN ANY COURT IN ANY SUIT, ACTION, PROCEEDING OR ANY MATTER ARISING IN CONNECTION WITH OR IN ANY WAY RELATED TO THE NOTE OR THE FINANCING TRANSACTION OF WHICH THE NOTE IS A PART OR THE DEFENSE OR ENFORCEMENT OF ANY OF THE HOLDER'S RIGHTS AND REMEDIES IN CONNECTION THEREWITH. THE MORTGAGOR ACKNOWLEDGES THAT IT MAKES THIS WAIVER KNOWINGLY, VOLUNTARILY, WITHOUT DURESS AND ONLY AFTER EXTENSIVE CONSIDERATION OF THE RAMIFICATIONS OF THIS WAIVER WITH ITS ATTORNEY.

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51. **Consent to Jurisdiction.** The Mortgagor hereby consents that any action or proceeding against the Mortgagor in connection with any of the Loan Documents (as defined in the Note) may be commenced and maintained in any court within the State of Illinois or in the United States District Court for the District in which the real property is situated. The Mortgagor agrees that the courts of the State of Illinois or in the United States District Court for the District in which the real property is situated shall have jurisdiction with respect to the subject matter hereof and the person of the Mortgagor. The Mortgagor hereby waives the requirement of personal service of the summons and complaint or other process or papers issued in any action or proceeding against Mortgagor under this Mortgage or the Loan Documents and agrees that service of such summons and complaint, or other process or papers may, at Mortgagee's option, be made by regular or certified mail addressed to the Mortgagor at the respective addresses of the Mortgagor set forth herein. The Mortgagor agrees not to assert any defense to any action or proceeding initiated in any courts of the State of Illinois or in the United States District Court for the District in which the real property is situated by Mortgagee based upon improper venue or inconvenient forum. It is hereby agreed that service of process on Mortgagor may be made on any Sole Member and Manager, officer, director or agent for service of process. The Mortgagor agrees that any action brought by the Mortgagee shall be commenced and maintained only in a court of federal judicial district or county in which Mortgagee has a place of business in Illinois. Nothing contained in this Section shall be interpreted or construed in any way to limit the right of Mortgagee to: (i) serve process in any other manner or on any other person or entity (including without limitation personal service and service on the Secretary of State of Illinois and/or (ii) bring any action or proceeding in courts other than courts of the State of Illinois or in the United States District Court for the District in which the real property is situated.
52. **Commercial Loan.** Mortgagor represents and warrants that the Loan and other financial accommodations included in the Debt secured by the Mortgage were obtained solely for the purpose of carrying on or acquiring a business or commercial investment and not for residential, consumer or household purposes.
53. **Set-Off.** In addition to any rights and remedies of Mortgagee provided by this Mortgage or the Other Security Documents and by law, Mortgagee shall have the right, without prior notice to Mortgagor, any such notice being expressly waived by Mortgagor to the extent permitted by applicable law, upon any amount becoming due and payable by Mortgagor under the Note, this Mortgage or the Other Security Documents (whether at the stated maturity, by acceleration or otherwise) to set-off and appropriate and apply against such amount any and all deposits (general or special, time or demand, provisional or final), in any currency, and any other credits, indebtedness or claims, in any currency, in each case whether direct or indirect, absolute or contingent, matured or unmatured, at any time held or owing by Mortgagee or any affiliate thereof to or for the credit or the account of Mortgagor.

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54. Representations, Warranties and Covenants. Mortgagor represents, warrants and covenants to Mortgagee:
- 54.1. Mortgagor has obtained, or will obtain in the ordinary course of construction, all necessary certificates, licenses and other approvals, governmental and otherwise, necessary for the construction of the planned improvements at the Mortgaged Property and all required zoning, land use, environmental and other similar permits or approvals for such construction, all of which are in full force and effect as of the date hereof and not subject to revocation, suspension, forfeiture or modification.
 - 54.2. The Mortgaged Property and the present and contemplated use and occupancy thereof are in material compliance with all applicable zoning ordinances, land use and Environmental Laws and other similar laws.
 - 54.3. All utilities, water and sewer systems required for the current or contemplated use of the Mortgaged Property are available for the Mortgaged Property. All utility service is provided by public utilities and the Mortgaged Property has accepted or is equipped to accept such utility service.
 - 54.4. All public roads and streets necessary for service of and access to the Mortgaged Property for the current or contemplated use thereof have been completed, are serviceable and are physically and legally open for use by the public.
 - 54.5. All costs and expenses of any and all labor, materials, supplies and equipment used in the construction of the Improvements to date, if any, have been paid in full or are being paid in the ordinary course of business.
 - 54.6. All liquid and solid waste disposal, septic and sewer systems located on the Mortgaged Property are in a good and safe condition and repair and in material compliance with all Applicable Laws.
 - 54.7. The Mortgaged Property is the only property owned by Mortgagor and Mortgagor shall not acquire additional property without the prior written consent of Mortgagee.
55. Riders to this Mortgage. If one or more riders are executed by Borrower and recorded together with this Mortgage, the covenants and agreements of each such rider shall be incorporated into and shall amend and supplement the covenants and agreements of this Mortgage as if the rider(s) were a part of this Mortgage.
56. Cross-Collateralization. In addition to the Note, this Mortgage secures all obligations, debts, and liabilities, plus interest thereon, of Mortgagor to Lender and/or Lender's successors and assigns, as well as all claims by Lender against Mortgagor, whether now existing or hereafter arising, whether related or unrelated to the purpose of the Note,

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whether voluntary or otherwise, whether due or not due, direct or indirect, determined or undetermined, absolute or contingent, liquidated or unliquidated, whether Mortgagor may be liable individually or jointly with others, whether obligated as guarantor, surety, accommodation party, or otherwise, and whether recovery upon such amounts may be or hereafter may become barred by any statute of limitations, and whether the obligation to repay such amounts may be or hereafter may become otherwise unenforceable.

57. Due on Sale – Consent by Lender. Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Mortgaged Property, or any interest in the Mortgaged Property. A "sale or transfer" means the conveyance of the Mortgaged Property or any right, title, or interest in the Mortgaged Property; whether legal, beneficial, or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than 3 years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Mortgaged Property, or by any other method of conveyance of an interest in the Mortgaged Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by Illinois law.
58. Appraisal of Mortgaged Property. Lender shall have the right to request an appraisal of the Mortgaged Property compiled by an appraiser selected by Lender as often as Lender reasonably believes is necessary. Mortgagor shall reimburse Lender for any such appraisal, through Mortgagor's obligation to do so, absent an Event of Default or some modification to the Debt, shall be limited to once annually. Mortgagor shall cooperate with Lender's appraiser in providing reasonable access to the Mortgaged Property and such other information as Lender and/or such appraiser reasonably requires for purposes of completing the appraisal. Any such appraisal shall be the property of Lender. Moreover, if any such appraisal demonstrates that there has been a material decline in the value of the Mortgaged Property such that the loan to value ratio (as defined below) no longer meets Lender's underwriting requirements, Lender reserves the right to demand from Borrower a principal reduction payment in an amount sufficient to reduce the loan to value ratio to meet such guidelines. Failure of Borrower to make such payment within sixty (60) days after demand therefore shall be an additional Event of Default under this Mortgage. As used herein, "loan to value ratio" means the ratio of (i) the then outstanding Debt to (ii) the then "as is" appraised value of the Mortgaged Property.
59. Waivers by Mortgagor
- 59.1. WAIVER OF HOMESTEAD EXEMPTION. MORTGAGOR HEREBY RELEASES AND WAIVES ALL RIGHTS AND BENEFITS OF THE HOMESTEAD EXEMPTION LAWS OF THE STATE OF ILLINOIS AS TO ALL INDEBTEDNESS SECURED BY THIS MORTGAGE.

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- 59.2. WAIVER OF RIGHT OF REDEMPTION. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS MORTGAGE, THE MORTGAGOR HEREBY WAIVES, TO THE EXTENT PERMITTED UNDER 735 ILCS 5/15-1601 OR ANY SIMILAR LAW EXISTING AFTER THE DATE OF THIS MORTGAGE, ANY AND ALL RIGHTS OF REDEMPTION ON MORTGAGOR'S BEHALF AND ON THE BEHALF OF ANY OTHER PERSONS PERMITTED TO REDEEM THE PROPERTY.
- 59.3. To the extent permitted by law, Mortgagor shall not apply for or avail itself of any appraisal, valuation, redemption, reinstatement, stay, extension or exemption laws or any so-called "Moratorium Laws" now existing or hereinafter enacted, in the order to prevent or hinder the enforcement of foreclosure of this Mortgage and hereby waives the benefit of such laws. Mortgagor, for itself and all who may claim through or under it, waives any and all right to have the property and estates comprising the Mortgaged Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgage Property sold in its entirety.
- 59.4. In any action commenced by Mortgagee by reason of Mortgagor's default under the terms of this Mortgage or Note or bond secured hereby, whether such action be an action to foreclose or an action under the bond or Note, Mortgagor hereby waives any defense other than payment, and waives any right to set-off by way of damages, recoupment or counterclaim in damages (unless a mandatory counterclaim), whether arising out of this Mortgage or the bond or Note or otherwise, which Mortgagor may otherwise be entitled to. Mortgagor shall have an independent action for such claim and such independent action shall not at any time be joined or consolidated with any action commenced by Mortgagee under this Mortgage or the bond or Note secured hereby, unless a mandatory counterclaim.
60. Time Is of the Essence. Time is of the essence in the performance of this Mortgage.
61. State Specific Provision(s).
- 61.1. Mortgage Deed; Future Advances. This Mortgage is an "Mortgage Deed" securing a promissory note and the holder hereof shall have all of the rights, powers and protection to which the holder of any Mortgage Deed securing a promissory note is entitled under Illinois law. Mortgagee is specifically permitted, at its option and in its discretion, to make additional advances under this Security Instrument as contemplated by Illinois law. Each and every such advance shall be secured by this Mortgage equally with, and with the same priority as, the original indebtedness secured hereby; provided, however, that (i) each such advance may be either evidenced by additional notes or recorded in an account on the books of Mortgagee;

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(ii) no such advance shall cause the principal amount of the Debt secured hereby to exceed the amount first set forth above; and (iii) the time of repayment thereof shall not exceed the maturity of the original Debt secured hereby as stated above. In furtherance of the foregoing, Lender and Borrower intend that this Mortgage shall secure the unpaid balance of Loan advances made by the holder hereof after this Mortgage is delivered to the County Recorder for record to the fullest extent and with the highest priority contemplated by Illinois law. The maximum principal amount of all Loan advances, in the aggregate and exclusive of interest accrued thereon and protective advances made, which may be outstanding at any one time, is \$269,000.00 in the aggregate. This Mortgage shall be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law. If and to the extent applicable, Borrower hereby waives any right it may have under Illinois law. This Mortgage secures an obligation incurred for the construction of Improvements on the Mortgaged Property and, consequently, is a "construction mortgage" within the meaning of the Uniform Commercial Code as enacted in Illinois.

- 61.2. Mechanics Liens. Borrower shall pay, from time to time and when due, all lawful claims and demands of mechanics, materialmen, laborers, and others that, if unpaid, might result in, or permit the creation of, a lien on the Mortgaged Property or on the rents arising therefrom. Borrower shall do or cause to be done everything necessary so that the lien and security interest of Lender in the Mortgaged Property is fully preserved and protected, at Borrower's expense and without any expense to Lender. If Borrower is empowered to discharge any mechanic's, laborer's, materialman's or other lien against the Mortgaged Property by the posting of such a bond or other security under applicable law, Borrower shall not have to make such payment if Borrower posts such bond or other security on the earlier of (a) 10 days after the filing or recording of the same, or (b) within the time prescribed by applicable law so as not to place the Mortgaged Property in jeopardy of forfeiture.
- 61.3. Lender's Fees and Expenses. If Lender institutes any suit or action to enforce any of the terms of the Mortgage, Lender shall be entitled to recover such sums as the court may adjudge reasonable as attorneys' fees at trial or upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's attorney's fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals,

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and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyor's reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Mortgagor also will pay any court costs, in addition to all other sums provided by law, including, without limitation, a payoff or release fee not to exceed \$500.00.

THIS IS A BALLOON MORTGAGE AND THE FINAL PRINCIPAL PAYMENT OF THE PRINCIPAL BALANCE DUE UPON MATURITY IS \$289,000.00 TOGETHER WITH ACCRUED INTEREST, IF ANY, AND ALL ADVANCEMENTS MADE BY THE MORTGAGEE UNDER THE TERMS OF THIS AGREEMENT.

[END OF PAGE – SIGNATURE PAGE TO FOLLOW]

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EXHIBIT A

LEGAL DESCRIPTION

LOT 65 IN A.W. DICKINSON'S SUBDIVISION OF THAT PART OF MILWAUKEE AVENUE OF LOT 11 IN SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THE WEST QUARTER OF SAID LOT 11 AND EXCEPT TRACTS CONVEYED TO CLARA S. LOWELL) IN COOK COUNTY, ILLINOIS.

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