

IN2309071C

MORTGAGE

(SBA Loan No. 58526291-07)

KNOW ALL MEN BY THESE PRESENTS, that **Apex 2024 LLC**, an Indiana limited liability company with its principal place of business located at 8210 Louisiana Street, Merrillville, Indiana (the "Mortgagor"), for consideration paid to the Mortgagor by **Shoreham Bank**, a federal savings bank with a place of business located at One Shoreham Way, Warwick, Rhode Island (including its successors and assigns, and the subsequent holder or holders of the Note (hereinafter defined), from time to time, the "Mortgagee"), the receipt of which is hereby acknowledged, does hereby MORTGAGE, GRANT A SECURITY INTEREST IN, CONVEY, ASSIGN, BARGAIN, SELL AND WARRANT to the Mortgagee the following described real estate and other property:

I. **LAND:** All the land in the City of Merrillville, County of Lake, State of Indiana, more particularly described in Exhibit A attached hereto and hereby made a part hereof (the "Premises").

II. **IMPROVEMENTS AND OTHER PROPERTY:** All buildings and improvements now or hereafter situated upon the Premises, together with all Personal Property and Fixtures now or hereafter owned by the Mortgagor or in which the Mortgagor has an interest (but only to the extent of such interest) and placed in or upon the Premises or the buildings or improvements thereon (the "Improvements").

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III. EASEMENTS: Any easement, bridge or right of way, contiguous to or adjoining the Premises and the Improvements thereon, and all other easements, if any, inuring to the benefit of the Premises.

IV. EQUIPMENT AND FIXTURES: All equipment and fixtures of every kind and description now or hereafter owned by the Mortgagor or in which the Mortgagor has any interest (but only to the extent of such interest) and situated or to be situated upon or in, or used in connection with the operation of, the Premises or the Improvements, together with any renewals, replacements or additions thereto, substitutions therefor and proceeds thereof.

The property hereby granted and conveyed is hereinafter generally referred to as the "Mortgaged Property".

TO HAVE AND TO HOLD the Mortgaged Property unto the Mortgagee, and its successors and assigns forever, together with all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining thereto, whether now owned or acquired hereafter, with the reversions, remainders, rents, issues, incomes and profits thereof, and all of the estate, right, title, interest and claim whatsoever which the Mortgagor now has or which it may hereafter acquire in and to the Mortgaged Property.

This conveyance is made for the purpose of securing:

(a) Payment of the principal and interest of that certain Note of the Mortgagor of even date herewith in the amount of Three Million Four Hundred Thousand Dollars (\$3,400,000) (the "Note"), which Note has a maturity date of June 17, 2049. The Note bears interest at a variable rate.

(b) Performance of each and every obligation of the Mortgagor contained herein and in the Note.

(c) Performance by the Mortgagor of all of its obligations and payment of any amounts due under that certain Loan Agreement of even date between the Mortgagor and the Mortgagee (the "Loan Agreement").

(d) Payment and performance of all future advances and other obligations that the then record owner of all or part of the Mortgaged Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when such future advance or obligation is evidenced by a writing which recites that it is secured by this Mortgage ("**Future Advances**"); provided, however, that the aggregate principal amount of Future Advances outstanding at any time shall not exceed (i) \$6,800,000, exclusive of any items described in (ii) below, including any additional advances made from time to time after the date hereof pursuant to the Note or Loan Agreement whether made as part of the debt secured hereby, made at the option of Mortgagee, made after a reduction to a zero (0) or other balance, or made

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otherwise, (ii) all other amounts payable by Mortgagor, or advanced by Mortgagee for the account, or on behalf, of Mortgagor, pursuant to the Loan Agreement or Note, including amounts advanced with respect to the Mortgaged Property for the payment of taxes, assessments, insurance premiums and other costs and impositions incurred for the protection of the Mortgaged Property to the same extent as if the future obligations and advances were made on the date of execution of this Mortgage.

Pursuant to Indiana Code § 32-29-1-10, the lien of this Mortgage with respect to any future advances, modifications, extensions and renewals referred to herein and made from time to time shall have the same priority to which this Mortgage otherwise would be entitled as of the date of this Mortgage is executed and recorded, without regard to the fact that any such future advance, modification, extension or renewal may occur after this Mortgage is executed. Nothing herein shall be deemed to obligate Mortgagee to make any future advances to Mortgagor.

The Note, the Loan Agreement and all documents executed by the Mortgagor in connection therewith, including, but not limited to, other documents securing the Note, shall hereinafter be referred to as the "Loan Documents".

The Mortgagor hereby covenants and agrees with the Mortgagee:

1. That the Mortgagor is the true, sole and lawful owner of the Mortgaged Property; that the Mortgagor is lawfully seized and possessed of the Mortgaged Property in fee simple; that the Mortgaged Property is free from all encumbrances, except as aforesaid; that the Mortgagor has good right, full power and lawful authority to sell and convey the Mortgaged Property to the Mortgagee.
2. That the Mortgagor will warrant and defend the Mortgaged Property to the Mortgagee forever against the lawful claims and demands of all persons, except as aforesaid.
3. That the Mortgagor, in case a sale shall be made under the power of sale hereafter contained, will, upon request, execute, acknowledge and deliver to the purchaser or purchasers such deed or deeds confirmatory of said sale as may be required.
4. That the Mortgagor shall not cause or permit strip or waste.
5. That the Mortgagor shall pay on demand all expenses of the Mortgagee in connection with the preparation, administration, default, collection, waiver or amendment of loan terms, or in connection with the Mortgagee's exercise, preservation or enforcement of any of its rights, remedies or options hereunder, including, without limitation, fees of outside legal counsel or the allocated costs of in-house legal counsel, accounting, consulting, brokerage or other similar professional fees or expenses, and any fees or expenses associated with travel or other costs relating to any appraisals or examinations conducted in connection with this Mortgage, and the amount of all such expenses shall, until paid, bear interest at the rate under the Note (including any default

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rate) and be an obligation secured hereby. The Mortgagor shall also pay all taxes and assessments of every kind and nature assessed, imposed or constituting a lien upon this Mortgage or upon the Mortgagee in respect to this Mortgage, the Loan Documents or the indebtedness evidenced hereby and thereby, whether under statutes now in force or that may be hereafter enacted, and any sums expended by the Mortgagee in making any repairs to the Mortgaged Property which the Mortgagee, at its option but without obligation to do so, may make in keeping the Mortgaged Property in good condition and repair, all of which sums shall be secured by this Mortgage and shall bear interest at the rate provided in the Note upon the indebtedness secured hereby until payment thereof.

6. That no waiver, forbearance, extension of time or indulgence shown by the Mortgagee to the Mortgagor or any other person now or hereafter interested herein or in the Mortgaged Property or in the Loan Documents with respect to any combination of conditions, covenants or agreements on the part of the Mortgagor to be paid, performed or observed as set forth or referred to herein or in the Loan Documents will affect the right of the Mortgagee hereafter to require payment, performance or observance of the same or of any other covenant, condition or agreement.

7. That if this instrument is signed by more than one party as Mortgagor, the obligations created hereby shall be both joint and several.

8. That the Mortgagor does hereby assign to the Mortgagee all rents due or to become due in the future from the occupants of the Mortgaged Property, or any part thereof, on any existing or future lease or tenancy, hereby constituting and appointing the Mortgagee its true and lawful attorney, with full power of substitution and revocation, to sue for and collect the same at any time and from time to time when any default exists hereunder.

9. That the entire indebtedness shall become due and payable, at the option of the Mortgagee, without notice, upon any mortgage pledge, hypothecation, sale, assignment or other transfer of the Mortgaged Property, or any part thereof, without the prior written consent of the Mortgagee, or upon the occurrence of any default described in the Loan Documents.

10. That the Mortgagor shall pay (i) the indebtedness secured hereby in accordance with the tenor of the Loan Documents; (ii) all taxes and assessments of every nature levied or to be levied upon the Mortgaged Property prior to the full payment and discharge of said indebtedness, whether under any present or future law; (iii) all premiums for insurance maintained upon the Mortgaged Property; (iv) all water rates and other expenses hereby secured as herein provided; and (v) all indebtedness to third parties authorized by the Mortgagee and secured by the Mortgaged Property.

11. That the Mortgagor shall keep and maintain insurance against loss by fire and by such other hazards, casualties and contingencies, in such amounts, for such periods, in such form and with such company or companies as the Mortgagee or other holder of this Mortgage may at any time and from time to time specify, and to pay

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promptly when due all premiums on such insurance. The Mortgagor shall make all policies of insurance payable in case of loss to the Mortgagee by clauses satisfactory to the Mortgagee and shall deliver the policies to the Mortgagee. The Mortgagee or other holder of this Mortgage for the time being is hereby made, constituted and appointed the true and lawful attorney irrevocable of the Mortgagor to demand, adjust, sue for, compromise and collect any and all losses which may occur under any such insurance and to give releases for any and all sums received in settlement of such losses, and to apply the same, after deducting any expenses incurred in connection therewith, upon the mortgage indebtedness secured hereby, whether or not then due, or in reimbursement for any taxes, assessments, insurance premiums or other sums paid by the Mortgagee, or to the cost of replacing or repairing the damaged Improvements. In the event of foreclosure under this Mortgage or other transfer of the title to the Mortgaged Property in satisfaction of the indebtedness secured hereby, or any part thereof, all right, title and interest of the Mortgagor in and to any insurance policies, or to any refund or return of premiums or dividends thereon, shall pass to the Mortgagee, and the Mortgagee may surrender said policies and collect any sums due thereon, or may, at its option, transfer its right, title and interest in said policies and the proceeds thereof to any purchaser of the Mortgaged Property; provided that any sums received on said policies by way of refunds, dividends or otherwise, shall be applied on account of the indebtedness secured hereby and any surplus paid over as a surplus on foreclosure. If the Mortgagor fails to provide such insurance or to pay the premiums thereon, the Mortgagee may effect such insurance or pay the premiums thereon, and all premiums so paid shall be secured by this Mortgage and shall bear interest at the rate provided upon the indebtedness secured hereby until payment thereof.

12. That forthwith upon receipt by the Mortgagor of notice of the institution of any proceeding or negotiations for the taking of the Mortgaged Property, or any part thereof, or any interest therein (whether for permanent or temporary use) in condemnation or by the exercise of the power of eminent domain, the Mortgagor shall give notice thereof to the Mortgagee. The Mortgagee may appear in any such proceedings and participate in any such negotiations and may be represented by counsel. The Mortgagor, notwithstanding that the Mortgagee may not be a party to any such proceeding, will promptly give to the Mortgagee copies of all notices, pleadings, judgments, determinations and other papers received by the Mortgagor in connection therewith. The Mortgagor will not enter into any agreement for the taking of the Mortgaged Property, or any part thereof, with anyone authorized to acquire the same in condemnation or by eminent domain unless the Mortgagee shall first have consented thereto in writing. In addition, the Mortgagee is authorized (i) to adjust and compromise the claim for any such award without the consent of the Mortgagor, (ii) to collect, receive and issue receipts for the proceeds of any such award in the name of the Mortgagee and the Mortgagor, and (iii) to endorse the Mortgagor's name upon any draft or check in payment of such award and upon any agreement, release, instrument or document necessary to effect the collection thereof. Any and all checks or drafts representing the proceeds from any such award, after deducting any expenses, including attorneys' fees, incurred by the Mortgagee in the enforcement, settlement, collection and handling of such claim shall be applied in accordance with Section 11 hereof. It is agreed that the

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Mortgagee shall not be held responsible for any failure or delay in collecting any such award, regardless of the cause of such failure or delay. Nothing herein shall in any way effect the grant and lien of this Mortgage or the liability of the Mortgagor for the payment of the indebtedness.

13. That the Mortgagor shall keep and maintain the exterior and interior of the Mortgaged Property at all times until full payment and discharge hereof, in as good condition and repair as the same now are or may hereafter be put in, but without making any material alterations thereto unless the consent in writing of the Mortgagee has first been obtained, and to permit the Mortgagee and its officers, agents and servants, to enter upon the Mortgaged Property at all reasonable times to view and inspect the same.

14. That the Mortgagee may pay all taxes, assessments, water rates or insurance premiums not paid by the Mortgagor when due, and all of such sums shall be immediately repaid unless otherwise provided and until repaid shall be secured by this Mortgage and shall bear interest at the same rate as the indebtedness secured hereby until paid, and, together with such interest, shall be a further lien upon the Mortgaged Property.

15. That if the Mortgagor shall be declared bankrupt or insolvent or shall make an assignment for the benefit of creditors or shall be placed under control of or in custody of any court, or if the Mortgagor shall abandon any of the Mortgaged Property, then, in any of said events, the Mortgagee is hereby authorized and empowered, at its option, without notice and without affecting the lien hereby created or the priority of said lien or any right of the Mortgagee hereunder, to declare all sums secured hereby immediately due and payable.

16. That in the event the Mortgaged Property or any part thereof shall be taken or condemned for public or quasi-public purposes by the proper authorities, the Mortgagor shall have no claim against the award for damages superior to that of the Mortgagee, or be entitled to any portion of the award until the indebtedness secured hereby shall be paid in full. All rights of the Mortgagor to such damages, or such awards, are hereby assigned to the Mortgagee to the extent that any of the indebtedness secured hereby remains unpaid. The Mortgagor, however, shall have the right to appeal such award, at its own expense, to a court of competent jurisdiction.

17. That the term "Mortgagor" wherever used herein and any pronoun referring thereto shall be construed in the singular, plural, masculine, feminine or neuter in accordance with the manner in which this instrument is executed, and whenever the context hereof permits, said term shall be deemed to include his, her, its or their heirs, executors, administrators, successors and assigns. The term "Mortgagee" shall be deemed to include the successors and assigns of the Mortgagee.

18. The Mortgagee may, at any time, at its option, upon ten (10) days' notice to the Mortgagor, require the Mortgagor to pay to the Mortgagee, on the first day of each

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calendar month, a sum (hereinafter referred to as the "Deposited Funds") equal to (i) one-twelfth (1/12) of the aforesaid annual taxes, assessments, water and sewer charges and all other charges upon the Mortgaged Property and/or upon the Mortgagor with respect to the Mortgaged Property (for the purposes of this paragraph, collectively referred to as the "taxes") and (ii) one-twelfth (1/12) of the annual premiums for the insurance required hereunder to be maintained on the Mortgaged Property, the respective amounts of such taxes and premiums to be reasonably estimated from time to time by the Mortgagee. The Mortgagee shall apply the Deposited Funds to the payment of such taxes and premiums and shall render an annual accounting to the Mortgagor of all disbursements of the Deposited Funds. Although each such monthly payment of the Deposited Funds is to be in a lump sum, each component thereof shall be deemed to be held separately by the Mortgagee for, and shall be applied only to, the particular item for which it was paid over by the Mortgagor, unless the Mortgagee, in its sole discretion elects otherwise. If at any time prior to the due date of any particular item for which funds are deposited hereunder, the Mortgagee estimates that there shall not be deposited with it one (1) month prior to such due date a sum sufficient for the payment of such item in full, the Mortgagor shall, upon demand, pay the amount of such deficiency to the Mortgagee notwithstanding that there may already be deposited with the Mortgagee sums for the payment of other items which are not yet due. If the amount of the Deposited Funds shall exceed the amount necessary to pay such taxes and premiums for the then current year, such excess shall be credited against future monthly deposits required hereunder. No interest shall be paid on the Deposited Funds, and such Deposited Funds may be commingled with the Mortgagee's general funds. Upon payment in full of all sums secured by this Mortgage, any excess Deposited Funds shall be refunded to the Mortgagor. In the event of any default by the Mortgagor in the performance of any of the terms, covenants or conditions contained herein or in the Note or in the Loan Documents, the Mortgagee may apply against the indebtedness secured hereby, in such manner as the Mortgagee may determine, any of the Deposited Funds then held by the Mortgagee.

19. (a) For the purpose of this Mortgage, the term "Hazardous Materials" shall mean any "oil", "hazardous material", "hazardous wastes" or "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq., as amended or in any other federal, state or local law governing the existence, release, generation, storage or disposal of any Hazardous Materials, and the regulations adopted pursuant thereto (collectively, the "Hazardous Waste Laws"), and shall include, without limitation (whether or not included in the definition contained in said laws), petroleum, solvents, asbestos and other chemicals which would be materially dangerous to the environment or to human beings.

(b) The Mortgagor does hereby warrant and represent to the Mortgagee that (i) the Mortgagor has never released, generated, stored or disposed of any Hazardous Materials on the Mortgaged Property in violation of any Hazardous Waste Laws, (ii) the Mortgagor is not aware of the existence, release or threat of release of any Hazardous Materials on the Mortgaged Property or on any properties adjacent to the Mortgaged Property in violation of any Hazardous Waste Laws, and (iii)

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the Mortgagor has not received any notice, order, claim or demand from any governmental authority with respect to the existence, release or threat of release of any Hazardous Materials.

(c) (i) The Mortgagor shall not release, generate or dispose of any Hazardous Materials on the Mortgaged Property or on any properties adjacent to the Mortgaged Property in violation of any Hazardous Waste Laws;

(ii) In the event that any Hazardous Materials are found on the Mortgaged Property, the Mortgagor shall immediately contain and remove the same in compliance with all Hazardous Waste Laws; and

(iii) In general, the Mortgagor shall ensure that all of its properties and operations, and those of its lessees, are in compliance with all Hazardous Waste Laws.

(d) The Mortgagor agrees to indemnify and hold the Mortgagee harmless from and against any and all claims, liabilities, costs and expenses incurred by the Mortgagee, including attorneys' fees and costs of litigation, arising from the release, existence or removal of, whether now or hereafter and whether before or after payment in full of the obligations under the Loan Documents, any Hazardous Materials on the Mortgaged Property or on any properties adjacent to the Mortgaged Property. This indemnification shall survive the loan secured hereby, notwithstanding any cancellation or discharge of this Mortgage.

(e) The Mortgagee, at its election, upon a reasonable belief that there has been a violation of any Hazardous Waste Laws, and without notice, may at any time and from time to time, whether or not an Event of Default shall exist under the Loan Documents, cause one or more environmental site assessments of the Mortgaged Property to be undertaken. Environmental site assessments may include a detailed visual inspection of the Mortgaged Property, including, without limitation, all storage areas, storage tanks, drains, dry wells and leaching areas, as well as the taking of soil samples, surface water samples and ground water samples, and such other investigation or analysis as is necessary or appropriate for a complete assessment of the compliance of the Mortgaged Property and the use and operation thereof with all Hazardous Waste Laws.

(f) The Mortgagee, at its election and in its sole discretion and without notice, may (but shall not be obligated to) cure any failure on the part of the Mortgagor or any occupant of the Mortgaged Property to comply with the Hazardous Waste Laws, including, without limitation the following:

(i) arrange for the cleanup or containment of Hazardous Materials found in, on or near the Mortgaged Property and pay for such cleanup and containment costs and costs associated therewith;

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(ii) pay on behalf of the Mortgagor or any occupant of the Mortgaged Property, any fines or penalties imposed on the Mortgagor or any occupant by any federal, state or local governmental agency or authority in connection with such Hazardous Materials; and

(iii) make any other payment or perform any other act which may prevent a release of Hazardous Materials, facilitate the cleanup thereof and/or prevent a lien from attaching to the Mortgaged Property.

Any partial exercise by the Mortgagee of the remedies hereinabove set forth or any partial undertaking on the part of the Mortgagee to cure the failure of the Mortgagor or any occupant of the Mortgaged Property to comply with the Hazardous Waste Laws, shall not obligate the Mortgagee to complete the actions taken or require the Mortgagee to expend further sums to cure the Mortgagor's or any such occupant's noncompliance; neither shall the exercise of any such remedies operate to place upon the Mortgagee any responsibility for the operation, control, care, management or repair of the Mortgaged Property, or make the Mortgagee the "owner" or "operator" of the Mortgaged Property or a "responsible party" within the meaning of the Hazardous Waste Laws.

Any amounts paid or costs incurred by the Mortgagee as a result of any of the above, together with interest thereon at the rate set forth in the Loan Documents from the date of payment, shall be immediately due and payable by the Mortgagor to the Mortgagee, and until paid shall be added to and become a part of the obligations secured hereby, and the same may be collected as part of said obligations in any suit herein or upon the Loan Documents or any other instrument included in the collateral or upon a foreclosure of this Mortgage; and the Mortgagee, by making any such payment or incurring any such costs, shall be subrogated to any rights of the Mortgagor or any occupant of the Mortgaged Property to seek reimbursement from any third parties, including, without limitation, a predecessor in interest to the Mortgagor's title or a predecessor to the occupant's use of the Mortgaged Property, who may be a "responsible party" under the Hazardous Waste Laws, in connection with the presence of such Hazardous Materials in, on or near the Mortgaged Property.

20. If the Mortgagor heretofore has acquired or hereafter acquires an estate of homestead in the property, the Mortgagor hereby agrees that such homestead estate is waived to the extent of this Mortgage and the amount due under the Note and to the extent of all renewals, extensions and modifications of this Mortgage or the Note, and that said homestead estate is subject to all of the rights of the Mortgagee under this Mortgage and the Note and all renewals, extensions and modifications of this Mortgage and the Note, and is subordinate to the lien evidenced by this Mortgage, and all renewals, extensions and modifications of this Mortgage. Furthermore, the Mortgagor hereby waives the benefits of any homestead or similar laws or regulations that may otherwise be applicable from time to time.

PROVIDED, NEVERTHELESS, that if the Mortgagor shall pay to the Mortgagee the principal amount of the indebtedness secured hereby, together with interest, in the

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manner and at the time or times specified in the Loan Documents, and shall pay, perform and observe all of the other covenants, agreements and conditions set forth herein and in the Loan Documents on the part of the Mortgagor to be paid, performed or observed, then this Mortgage shall, subject to Section 19(d) hereof, be released by the Mortgagee at the Mortgagor's expense.

EVENTS OF DEFAULT AND REMEDIES

The happening and continuance for the period, if any, hereinafter indicated, of any of the following events shall constitute an Event of Default hereunder:

- (a) The occurrence of any Event of Default (as defined in the Loan Agreement);
- (b) The mortgage, pledge, hypothecation, sale, assignment or other transfer of the Mortgaged Property, or any part thereof;
- (c) If any "notice of responsibility" or "notice of violation" or any similar notice is issued by any governmental authority against the Mortgagor or the Mortgaged Property under any Hazardous Waste Law and remains unsatisfied for a period of sixty (60) days after the issuance thereof (or such lesser period of time as may be specified in said notice or in any Hazardous Waste Law); or
- (d) If any lien or claim is filed against the Mortgaged Property under any Hazardous Waste Law.

Upon the occurrence of an Event of Default, the Mortgagee shall have the following remedies:

- (a) To the extent permitted by law, the Mortgagee, at its option, without notice, without any liability to the Mortgagor, and without regard to the adequacy of the security for the indebtedness secured hereby, may:
 - (i) enter upon the Mortgaged Property and take possession of the Mortgaged Property; or
 - (ii) demand and receive payment of all rents, benefits and profits of the Mortgaged Property, including those past due and unpaid (whether or not the Mortgagee has taken possession of the Mortgaged Property); or
 - (iii) foreclose upon the Mortgaged Property and, as a matter of right, have a receiver immediately appointed for the Mortgaged Property and the earnings, revenues, rents, issues, profits and other income thereof and therefrom, with all such powers as the court making such appointment shall confer; or

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(iv) take any other action permitted under the Loan Documents or by applicable law.

(b) If the Mortgagee enters upon and takes possession of the Mortgaged Property as provided in paragraph 1 immediately above, the Mortgagee or its assigns may operate and manage the Mortgaged Property and perform any acts which the Mortgagee reasonably deems necessary or desirable to protect and preserve the rentability or conserve the value of the Mortgaged Property. The Mortgagee shall have no liability for any action or inaction while in possession of the Mortgaged Property so long as such action or inaction is taken or refrained from being taken in good faith and in the absence of gross negligence.

(c) The Mortgagee shall have the STATUTORY POWER OF SALE.

(d) Acceptance by the Mortgagee of any payment in an amount less than the amount then due on the indebtedness secured hereby shall be deemed an acceptance on account only and the failure to pay the entire amount then due shall be and continue to be an event of default hereunder. At any time thereafter and until the entire amount then due on the indebtedness secured hereby has been paid, the Mortgagee shall be entitled to exercise all rights conferred upon it in this Mortgage upon the occurrence of an event of default.

(e) No remedy herein conferred upon the Mortgagee shall be exclusive of any other remedy herein, in the Loan Documents or by law provided or permitted, but such shall be cumulative and in addition to every other remedy given herein or now or hereafter existing at law or in equity.

(f) The exercise of any option in this Mortgage by the Mortgagee shall not be deemed a waiver of its rights to exercise any other option; and the filing of a suit for collection of the indebtedness secured hereby shall not preclude sale pursuant to the power of sale contained in this Mortgage after a dismissal of the suit.

(g) The Mortgagor agrees, to the extent that it may lawfully so agree, that if an event of default shall occur hereunder or under the Loan Documents, neither the Mortgagor nor anyone claiming through or under the Mortgagor shall or will set up, seek or claim to take advantage of any appraisal, valuation, extension, redemption, moratorium or marshalling laws now or hereafter in force in the locality where the Mortgaged Property may be situated, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, or the absolute sale of the Mortgaged Property, or the final or absolute putting into possession thereof, immediately after such sale, of the purchaser thereof, and the Mortgagor hereby waives, to the full extent that it may lawfully do so, the benefit of all such laws and any and all right to have the estates comprised in the security intended to be created hereby marshalled upon any foreclosure of the lien hereof.

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(h) At any foreclosure sale, whether pursuant to the power of sale contained in this Mortgage, or pursuant to the judgment of a court, all of the Mortgaged Property, at the option of the Mortgagee and without notice to Mortgagor, may be sold as a whole and it shall not be necessary to have any Personal Property present at the place of sale. The recitals in the bill of sale to any purchaser at such sale shall be full and conclusive evidence of the truth of the matters stated therein, and all prerequisites to such sale shall be presumed to have been performed and such sale and bill of sale shall be conclusive against the Mortgagor.

(i) If foreclosure should be commenced by the Mortgagee, at any time before the sale of the Mortgaged Property, the Mortgagee may abandon such sale and may at any time or times thereafter again commence such sale, or the Mortgagee may sue for collection of the Note and foreclosure of this instrument in the courts; if the Mortgagee should sue for such collection and/or foreclosure, it may at any time before entry of final judgment dismiss the suit and sell the Mortgaged Property pursuant to the power of sale contained herein.

(j) If any action or proceeding be commenced by the Mortgagee to foreclose this Mortgage or otherwise to collect the indebtedness secured hereby, all sums paid by the Mortgagee for the expense of any such action (including attorneys' fees) shall on notice and demand be paid by the Mortgagor, together with interest thereon for each day from the date such costs were incurred by the Mortgagee until paid by the Mortgagor at the rate per annum set forth in the Note, and shall be a lien on the Premises prior to any right or title to, interest in or claim upon the Premises subordinate to the lien of this Mortgage and shall be deemed to be secured by this Mortgage and evidenced by the Note and in any action or proceeding to foreclose this Mortgage or to recover or collect the indebtedness secured hereby, the provisions of law respecting the recovery of costs, disbursements and allowances shall prevail unaffected by this covenant.

Indiana Law Provisions

MORTGAGE FORECLOSURE ACTIONS. Where any provision of this Mortgage is inconsistent with any provision of Indiana law regulating the creation or enforcement of a lien or security interest in real or personal property including, but not by way of limitation, Ind. Code 32-30-10-1, *et seq.*, "Mortgage Foreclosure Actions," and the Code, as modified and/or replaced from time to time, the provisions of Indiana law shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provisions of this Mortgage that can be construed in a manner consistent with Indiana law.

Power of Sale; Self-Help. To the extent the laws of the State of Indiana limit (i) the availability of the exercise of any of the rights or remedies set forth in this Mortgage, including, without limitation, the remedies involving a power of sale on the part of Mortgagee and the right of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, or (ii) the enforcement of waivers and indemnities made by Mortgagor, such remedies, waivers, or indemnities shall be

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exercisable or enforceable, any provisions in this Mortgage to the contrary notwithstanding, if, and to the extent, permitted by the laws in force at the time of the exercise of such remedies or the enforcement of such waivers or indemnities without regard to the enforceability of such remedies, waivers or indemnities at the time of the execution and delivery of this Mortgage.

No Waiver of Right to Seek Deficiency. Anything contained in Ind. Code 32-29-7-3 or 32-29-7-5 to the contrary notwithstanding, no waiver made by Mortgagor in this Mortgage or in any of the Loan Documents shall constitute (i) the waiver of the time limitations on issuance of process or (ii) consideration for or be deemed to be a waiver or release by Mortgagee or any judgment holder of the indebtedness of the right to seek a deficiency judgment against Mortgagor or any other person or entity who may be personally liable for the indebtedness, which right to seek a deficiency judgment is hereby reserved, preserved and retained by Mortgagee for its own behalf and its successors and assigns, subject in all events to the Note. Future advances, modifications, extensions or renewals may occur after this Mortgage is executed.

Powers of Receiver. Any receiver appointed under this Mortgage shall have all of the usual powers and duties of receivers pursuant to Ind. Code 32-30-5-1, *et seq.*, as amended, modified.

CONSENT TO JURISDICTION. TO INDUCE THE MORTGAGEE TO ACCEPT THE NOTE, THE MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO THE MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN MARION COUNTY, INDIANA. THE MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN MARION COUNTY, INDIANA, WAIVES PERSONAL SERVICE OF PROCESS UPON THE MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

Miscellaneous.

In case any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but each shall be construed as if such invalid, illegal or unenforceable provision had never been included.

This Mortgage is to be construed in accordance with and governed by the laws of the State of Indiana.

All notices, requests, demands, consents or other communications given hereunder or in connection herewith (collectively the "Notice") shall be in writing and

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shall be sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

If to the Mortgagor: Apex 2024 LLC
8210 Louisiana Street
Merrillville, Indiana 46410

If to the Mortgagee: Shoreham Bank
One Shoreham Way
Warwick, Rhode Island 02886

Either party may, by Notice given as aforesaid, change its address for all subsequent Notice. Any Notice by or in behalf of the Mortgagee herein named shall be deemed sufficient if signed by any one of its directors, officers or counsel and if otherwise given or made in compliance with this paragraph.

The loan secured by this lien was made under a United States Small Business Administration ("SBA") nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

(a) When SBA is the holder of the Note, this document and all documents evidencing or securing the loan will be construed in accordance with federal law.

(b) Mortgagee or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No borrower or guarantor may claim or assert against SBA any local or state law to deny any obligation of Mortgagor, or defeat any claim of SBA with respect to this loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

[Signature Page Follows]

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IN WITNESS WHEREOF, this Mortgage has been executed as of the 17th day of June, 2024.

Apex 2024 LLC

By

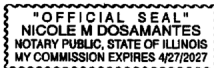

Dhruv Dimpkumar Patel,
Authorized Member

STATE OF Illinois

COUNTY OF COOK

In Chicago, IL on the 14th day of June, 2024, before me personally appeared Dhruv Dimpkumar Patel, Authorized Member of Apex 2024 LLC, proved to me through satisfactory evidence of identification, which was photographic identification with signature issued by a federal or state governmental agency, or personal knowledge of the undersigned, to be the party executing the foregoing instrument and he acknowledged said instrument, by him executed to be his free act and deed and the free act and deed of Apex 2024 LLC.

SEAL:



Signed: 

Printed or Typed Name: Nicole M. Dosamantes

My Commission expires: 4/27/2027

My County of residence: COOK

My Commission number: 970837

I affirm under the penalties for perjury, that I have taken reasonable care to redact each Social Security Number in this document, unless required by law. Robert A. Migliaccio, Esq.

This instrument prepared by, and after recording return to: Robert A. Migliaccio, Esq., Cameron & Mittleman LLP, 301 Promenade Street, Providence, Rhode Island 02908

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EXHIBIT A

For APN/Parcel ID(s): 45-12-22-426-001.000-030

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF MERRILLVILLE, COUNTY OF LAKE, STATE OF INDIANA AND IS DESCRIBED AS FOLLOWS:

PARCEL 1 (FEE):

PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 22, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND P.M. LYING SOUTH OF THE SOUTHERLY LINE OF THE I-65 EXIT RAMP, LAKE COUNTY, INDIANA, DESCRIBED AS BEGINNING AT A POINT ON SAID SOUTHERLY LINE AND 1029.00 FEET WEST OF THE EAST FINE OF SAID SECTION 22 (MEASURED PERPENDICULAR); THENCE SOUTH AND PARALLEL WITH SAID EAST LINE, 395.88 FEET, THENCE SOUTH 63 DEGREES 58 MINUTES 17 SECONDS EAST 87.78 FEET; THENCE SOUTHERLY ALONG A CIRCULAR CURVE WHICH IS CONVEX TO THE WEST WHOSE RADIUS = 180.00 FEET, TANGENT = 41.57 FEET, DEFLECTION ANGLE = 26 DEGREES 00 MINUTES 20 SECONDS, A DISTANCE OF 81.69 FEET ALONG SAID CURVE; THENCE SOUTH 00 DEGREES 01 MINUTE 23 SECONDS WEST, 12.33 FEET; THENCE NORTH 89 DEGREES 58 MINUTES 37 SECONDS WEST, 350.00 FEET TO A POINT LYING 15.00 FEET EAST OF THE WEST FINE OF SAID EAST HALF (MEASURED PERPENDICULAR); THENCE NORTH 00 DEGREES 01 MINUTES 23 SECONDS EAST AND PARALLEL WITH SAID WEST LINE, 409.95 FEET TO SAID SOUTHERLY LINE; THENCE EASTERLY ALONG SAID SOUTHERLY LINE ALONG A CIRCULAR CURVE WHICH IS CONVEX TO THE NORTH WHOSE RADIUS = 722.27 FEET, TANGENT = 159.49 FEET, DEFLECTION ANGLE = 24 DEGREES 54 MINUTES 14 SECONDS, A DISTANCE OF 313.94 FEET ALONG SAID CURVE TO THE POINT OF BEGINNING, BEING A PART OF PARCEL 1, WESTLAKE PLAZA, AS SHOWN IN PLAT BOOK 47, PAGE 77, IN LAKE COUNTY, INDIANA, AND AS AMENDED IN CERTIFICATES OF CORRECTION RECORDED AUGUST 10, 1977, AS DOCUMENT NOS. 422236 AND 422237, AND IN CERTIFICATE OF CORRECTION RECORDED AUGUST 29, 1977, AS DOCUMENT NO. 425494, EXCEPT THAT PART DESCRIBED AS FOLLOWS:

PART OF THE EAST HALF OF THE SOUTHEAST QUARTER SECTION 22, TOWNSHIP 35 NORTH, RANGE 8 WEST OF THE 2ND PRINCIPAL MERIDIAN, LYING SOUTH OF THE SOUTHERLY LINE OF THE I-65 EXIT RAMP, LAKE COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHERLY RIGHT-OF-WAY OF I-65 AND 1029.00 FEET WEST OF THE EAST LINE OF SECTION 22 (MEASURED PERPENDICULARLY); THENCE SOUTHWESTERLY ALONG A CURVE TO THE LEFT BEING THE SOUTHERLY RIGHT-OF-WAY LINE OF THE I-65 EXIT RAMP A DISTANCE OF 161.38 FEET, HAVING A RADIUS OF 722.27 FEET AND A DELTA ANGLE OF 12 DEGREES 48 MINUTES 02 SECONDS WITH A CHORD BEARING SOUTH 74 DEGREES 16 MINUTES 12 SECONDS WEST AND A LENGTH OF 161.03 FEET; THENCE SOUTH A DISTANCE OF 301.84 FEET; THENCE EAST A DISTANCE OF 91.50 FEET; THENCE SOUTH A DISTANCE OF 32.50 FEET; THENCE EAST A DISTANCE OF 63.50 FEET TO A POINT ON THE COMMON BOUNDARY OF THE LUCKY STEER STEAK HOUSE AND THE LA QUINTA MOTOR INN TRACT; THENCE NORTH A DISTANCE OF 378.00 FEET ALONG THE SAID COMMON BOUNDARY TO THE POINT OF BEGINNING, BEING A PART OF PARCEL 1 IN WEST LAKE PLAZA, AS PER PLAT THEREOF RECORDED IN PLAT BOOK 47, PAGE 77, IN THE OFFICE OF THE RECORDER OF LAKE COUNTY, INDIANA, AND AS AMENDED BY CERTIFICATES OF CORRECTION RECORDED AUGUST 10, 1977, AS DOCUMENT NO. 422236 AND 422237 AND CERTIFICATE OF CORRECTION RECORDED AUGUST 29, 1977, AS DOCUMENT NO. 425494.

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PARCEL 2 (EASEMENT):

EASEMENT ESTATE APPURTENANT TO PARCEL 1 CREATED BY COMMON-ACCESS AND CROSS-PARKING EASEMENT AGREEMENT DATED JUNE 7, 1990, AND RECORDED JUNE 29, 1990, AS DOCUMENT NO. 109458, MADE BY AND BETWEEN L.Q. JOINT VENTURE #800, A TEXAS JOINT VENTURE, COMPOSED OF LA QUINTA MOTORS INNS, INC., A TEXAS CORPORATION AND THE PRUDENTIAL INSURANCE COMPANY OF AMERICA, A NEW JERSEY CORPORATION, AND THE GREAT WESTERN, INC., AN INDIANA CORPORATION.

Property of Lake County Recorder