

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

First Republic Bank
111 Pine Street
San Francisco, CA 94111
Attn: Loan Review
139683-CPF
Tax ID: 05-016-0019

(Space above this line for Recorder's use)



FIRST REPUBLIC BANK
It's a privilege to serve you®

ASSIGNMENT OF LEASES

This Assignment of Leases (the "Assignment") is executed by **1251 N 800, E LLC, a Utah limited liability company** (the "Borrower"), in favor of **First Republic Bank** (the "Lender"), with reference to the following facts:

A. Borrower has obtained or is about to obtain a loan from the Lender in the principal amount of **Four Million Two Hundred Thousand and 00/100 Dollars (\$4,200,000.00)** (the "Loan") evidenced by Borrower's promissory note dated **February 10, 2021** (the "Note") in favor of the Lender. The Note and Borrower's other obligations to the Lender in connection with the Loan are secured by a deed of trust, fixture filing, assignment of rents, and security agreement (the "Deed of Trust") encumbering the real property described in Exhibit "A" attached hereto (the "Real Property") and all buildings, structures and improvements now existing or hereafter constructed on the Real Property (the "Improvements"). The Real Property and Improvements are referred to collectively as the "Property."

B. The Note, Deed of Trust, and all other documents executed by Borrower and delivered to the Lender at the Lender's request in connection with the Loan are referred to collectively as the "Loan Documents."

C. Borrower desires to assign its interest in all leases now or hereafter affecting the Property to the Lender on the terms and conditions of this Assignment.

THEREFORE, for valuable consideration, Borrower agrees as follows:

1. **Assignment.** Borrower absolutely and unconditionally grants, transfers and assigns to the Lender all of Borrower's right, title, and interest in and to the following (collectively, the "Leases"): (a) all existing and future leases affecting all or part of the Property, including the leases, if any, identified in Exhibit "B" attached to this Assignment; (b) all extensions, renewals, modifications and amendments to such leases; and (c) all guaranties of and security for the tenants' obligations under such leases. All terms with an initial capital letter which are used but not defined in this Assignment shall have the respective meanings given to such terms in the Deed of Trust.

2. **License.** Prior to the occurrence of an Event of Default under the Loan Documents, Borrower shall have a license to exercise all of the lessor's rights under the Leases and to collect all rent and other amounts payable by tenants under the Leases, including all claims by Borrower for damages resulting from or arising out of any breach by any tenant under any of the Leases (collectively, the "Rent") as the same becomes due and payable. Upon the occurrence of an Event of Default under the Loan Documents, Borrower's license to enforce the Leases and collect the Rent shall automatically be revoked without notice to Borrower. Following such revocation, the Lender shall be entitled to enforce all of the lessor's rights under the Leases and collect and retain all Rent. The Lender shall have the right to apply all Rent collected by or on behalf of the Lender to the obligations secured by the Deed of Trust in such order and amounts as the Lender may determine in its sole and absolute discretion. No action taken by the Lender to collect Rent or enforce the Leases shall be deemed to make the Lender a mortgagee-in-possession of the Property. Notwithstanding anything to the contrary contained in this Assignment or in the other Loan Documents, Borrower's assignment of the Leases to the Lender is an absolute assignment and not an assignment as security.

3. **Notice to Tenants.** Upon revocation of the license described in Section 2 above, Borrower irrevocably authorizes all tenants under the Leases (referred to collectively as the "Tenants" and individually as a "Tenant") to comply with any notice or demand by the Lender for payment to the Lender of any Rent or for the performance of any of the Tenants' other obligations under the Leases, and no Tenant shall have any duty to inquire as to whether any default by Borrower has occurred under the Loan Documents.

4. **Warranties and Representations by Borrower.** Borrower warrants and represents to the Lender that, except as specifically set forth in a written rent statement certified by Borrower or other writing furnished by Borrower to the Lender prior to the date of this Assignment, (a) there are no leases or rental agreements affecting all or part of the Property other than the leases identified in Exhibit "B" attached to this Assignment (collectively, the "Existing Leases"), and as of the date the Deed of Trust is recorded in the official records of the county in which the Property is located, no leases or rental agreement will affect the Property other than the Existing Leases; (b) Borrower is the sole owner of the entire landlord's interest in the Existing Leases; (c) Borrower has delivered to the Lender complete and accurate copies of the Existing Leases (including all amendments, modifications, and supplements thereto); (d) no rent concessions have been given to any Tenant under any of the Existing Leases; (e) no rent has been prepaid in advance for more than one (1) month by any Tenant under any of the Existing Leases (except that a bona fide security deposit shall not be deemed to constitute rent collected in advance); (f) no Tenant under any of the Existing Leases has any defenses to the enforcement of its Existing Lease, and no Tenant under any of the Existing Leases has any offsets or deductions to rent; (g) if this Assignment is executed in connection with existing Improvements on the Real Property, each of the Tenants under the Existing Leases has accepted and now occupies its premises on a rent-paying basis, all work required to be performed by Borrower under the Existing Leases has been completed in accordance with the terms of the Existing Leases; (h) no Tenant under the Existing Leases has an option or right of first refusal to expand its premises or to purchase all or part of the Property or any similar option or right; (i) each of the Existing Leases is valid, enforceable and in full force and effect, and neither Borrower nor any Tenant is in default under any of the Existing Leases; (j) each of the Existing Leases constitutes the entire agreement with the Tenant thereunder, and none of the Existing Leases has been modified, amended, or supplemented in any respect; (k) none of the Existing Leases, and no Rents and Profits payable under any of the Existing Leases, has been assigned or otherwise pledged or hypothecated to any Person other than to the Lender; (l) Borrower has received no notice from any Tenant under any of the Existing Leases challenging the validity or enforceability of any of the Existing Leases; (m) no Person has any possessory interest in, or right to occupy, all or part of the Property except under and pursuant to one of the Existing Leases; (n) each of the Existing Leases is, or at the option of the Lender may be made to be, subordinate to the Deed of Trust, either pursuant to its terms or pursuant to a separate subordination agreement; (o) no brokerage commissions or finder's fees are due and payable regarding any of the Existing Leases; (p) all of the Existing Leases are arm's-length agreements with bona fide, independent third Persons; (q) no Existing Lease has the benefit of a non-disturbance agreement that would be considered unacceptable to prudent institutional lenders; and (r) all security deposits relating to the Existing Leases as shown on the written rent statement certified by Borrower and delivered to the Lender have been collected by Borrower

5. **Compliance with Leases.** Borrower shall perform and discharge all obligations of the lessor under the Leases in accordance with the terms thereof and shall diligently enforce all remedies available to Borrower in a commercially reasonable manner in the event of a default by the Tenant under any Lease.

6. **Lease Documentation.** If, under the terms of the Loan Documents, the Lender's prior written consent is required in connection with Borrower's execution of any Lease, at the time the Lender's consent is requested by Borrower, Borrower shall submit to the Lender (a) a complete and accurate copy of the Lease with respect to which the Lender's consent is requested; (b) the rental application (if any) of the Tenant under the Lease; (c) if specifically requested by the Lender, a complete and accurate copy of a current financial statement for the Tenant under the Lease, certified by the Tenant as being true and correct, together with a credit report for the Tenant; and (d) such other information regarding the Tenant under the Lease and the proposed use of the space which is the subject of the Lease as the Lender may reasonably require. The Lender's approval of a Lease may be conditioned on, among other things, the Lender's receipt of (i) an estoppel certificate satisfactory to the Lender in form and substance executed by the Tenant under the Lease; and (ii) a subordination, non-disturbance, and attornment agreement satisfactory to the Lender in form and substance executed by the Tenant under the Lease. Upon the Lender's request from time to time, Borrower shall provide the Lender with the information and documents specified in clauses (a) through (d) of this Section with respect to any or all existing Tenants leasing space in the Improvements, provided that such information and documents are in Borrower's possession or control. Upon the Lender's request from time to time, Borrower shall use its commercially reasonable efforts to obtain and deliver to the Lender the documents described in clauses (i) and (ii) of this Section with respect to new Tenants who lease space in the Improvements after recordation of the Deed of Trust.

7. **No Liability by Lender.** Nothing contained in this Assignment or any of the other Loan Documents shall be deemed to render the Lender directly or indirectly liable or responsible for (a) the control, care, operation, management or repair of all or part of the Property; or (b) the performance or observance of any or all of Borrower's duties, obligations, representations, or warranties as lessor under any of the Leases. The Lender shall have no responsibility or liability of any kind to Borrower for any failure or delay by the Lender in enforcing any of the terms or conditions of any of the Leases.

8. **Indemnification.** Borrower shall indemnify and hold the Lender harmless from and against any and all claims, demands, damages, liabilities, actions, causes of action, suits, costs, and expenses, including attorneys' fees and costs, arising out of or relating to (a) any duty or obligation to be performed by Borrower or any representation or warranty made by Borrower as lessor under any of the Leases; or (b) the Lender's exercise of any or all of the Lender's rights and remedies under this Assignment.

9. **No Prior Assignments.** Borrower warrants and represents to the Lender that (a) Borrower holds or, as of the date of recordation of the Deed of Trust will have acquired, all of the lessor's rights under the Existing Leases; (b) Borrower has not assigned the Leases to any other Person; and (c) Borrower shall not assign the Leases to any other Person as long as Borrower remains indebted to the Lender in connection with the Loan.

10. **Attorneys' Fees.** Borrower shall pay to the Lender upon the Lender's demand all costs and expenses, including attorneys' fees and costs, incurred by the Lender in enforcing any of the terms of this Assignment or the Lender's rights under this Assignment.

11. **Modifications; Waiver.** This Assignment may be modified only by a written agreement signed by Borrower and the Lender. No waiver of any of the terms of this Assignment shall be binding on the Lender unless such waiver is in writing and signed by the Lender.

12. **Governing Law.** This Assignment shall be governed by and interpreted under the laws of the State of Utah.

13. **Remedies.** The Lender shall be entitled to exercise its rights and remedies under this Assignment (a) without initiating any action or proceeding of any kind against Borrower or taking possession of the Property; (b) without regard to the adequacy of any security for Borrower's obligations to the Lender in connection with the Loan; and (c) without having recorded a notice of default and election to sell under the Deed of Trust. The Lender's rights and remedies under this Assignment are cumulative with and in addition to all other rights and remedies which the Lender may have in connection with the Loan, including, without limitation, any and all rights afforded by applicable law.

14. **Assignment; Term.** The Lender's rights under this Assignment may be separately assigned by the Lender by written instrument. Upon Borrower's payment and performance of all obligations secured by the Deed of Trust, the Lender shall execute and record a reassignment to Borrower of all rights acquired by the Lender under this Assignment.

15. **Descriptive Headings; Counterparts.** The headings to sections of this Assignment are for convenient reference only, and they do not in any way limit or amplify the terms of this Assignment and shall not be used in interpreting this Assignment. For purposes of this Agreement, the term "including" shall be deemed to mean "including without limitation." This Assignment may be signed in counterparts, each of which shall constitute an original, and all of which together shall constitute one agreement.

16. **Successors.** This Assignment shall be binding upon and inure to the benefit of Borrower and the Lender and their respective successors and assigns.

[Signature Page Follows]

Dated: February 10, 2021.

BORROWER:

1251 N 800, E LLC,
a Utah limited liability company

By:


Myron Lieberman, Manager

NOTE: ALL SIGNATURES ON THIS ASSIGNMENT MUST BE NOTARIZED.

ACKNOWLEDGMENT¹

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

[Please use the below to notarize this document if signed in Utah]

State of California
County of Los Angeles

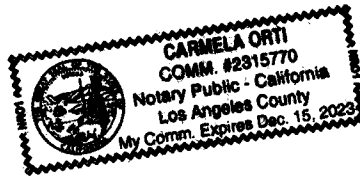
The foregoing instrument was acknowledged before me this 17th day of February 2021 by MYRON GEsERMAN, the Manager of 1251 N 800 E LLC, a Utah limited liability company.

[Signature]
Notary Public

My commission expires: 12/15/23

Residing at: LOS ANGELES

15874315_v2



¹ FYI, if the Borrower notary block complies with the laws of the state(s) in which this instrument is executed, then it will be acceptable in Utah. Otherwise, the notary block will need to be revised. As indicated below, the Utah short form of acknowledgment is included here.

File No. 139683-CPF.

**EXHIBIT A
PROPERTY DESCRIPTION**

BEGINNING AT A POINT AT THE INTERSECTION OF THE EAST BANK OF THE NORTHERN CANAL AND THE WEST LINE OF 800 EAST STREET, SAID POINT OF BEGINNING LYING SOUTH 10 RODS BY RECORD FROM THE NORTHEAST CORNER OF LOT 7, BLOCK 1, PLAT "F", LOGAN FARM SURVEY AND RUNNING THENCE SOUTH 0°15'16" WEST ALONG THE SAID WEST LINE OF 800 EAST STREET 451.48 FEET (440.55 BY RECORD) TO AN EXTENDED CHAIN LINK FENCE; THENCE NORTH 87°37'45" WEST 240.01 FEET (242.86 BY RECORD) TO THE SAID EAST BANK OF THE NORTHERN CANAL AND EXTENDED CHAIN LINK FENCE; THENCE ALONG THE SAID EAST BANK AND EXTENDED CHAIN LINK FENCE THE FOLLOWING 2 COURSES: 1) NORTH 28°09'57" EAST 294.15 FEET 2) NORTH 29°28'01" EAST 209.30 FEET TO THE POINT OF BEGINNING.

Tax Id No.: 05-016-0019

ASSIGNMENT OF LEASES

EXHIBIT "B"

DESCRIPTION OF EXISTING LEASES

All existing leases shown and identified in the most current Rent Statement for the Property certified by Borrower and delivered by Borrower to the Lender prior to the recordation of this Assignment in the real property records of the county in which the Property is located.

ASSIGNMENT OF LEASES

EXHIBIT "A"

LEGAL DESCRIPTION

THE REAL PROPERTY REFERRED TO HEREIN IS ALL THAT CERTAIN REAL PROPERTY LOCATED IN THE COUNTY OF CACHE, STATE OF UTAH, DESCRIBED AS FOLLOWS OR ON ATTACHED PAGE(S):