

## **ENVIRONMENTAL INDEMNITY (Unsecured)**

THIS ENVIRONMENTAL INDEMNITY ("Indemnity"), dated January 11, 2018 is made by David Login Perolis and Jensa Dawn Perolis (Jointly and Severally, "Borrower"), in favor of Loanatik, LLC as to a 100% undivided interest (hereinafter, the "Lender").

Subject to the terms and conditions set forth in the Promissory Note of even date herewith and associated Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, and other loan documents all of even date herewith (the "Loan Documents") the Lender has agreed to make a loan to the Borrower in the amount of One Hundred Thousand and No Cents Dollars \$100,000.00 (the "Loan") to finance certain needs of the Borrower. As a condition of the obligation of the Lender to make the Loan, the Borrower is required to execute and deliver to the Lender this Indemnity.

To induce the Lender to make the Loan and for other valuable consideration, the Borrower represents, warrants and agrees as follows:

1. Definitions. As used in this Indemnity, the following terms shall have the following meanings:

"Acquisition Date" means the date on which the Borrower or any affiliate of the Borrower first acquires any interest in, or obtains possession of, the Real Property.

"CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended from time to time (42U.S.C. ' ' 9601 et seq.).

"Code" means the Arizona Environmental Quality Act of 1986, Arizona Revised Statutes ("A.R.S.") §§ 49-101, et seq., including, without limitation, §§ 49-201(16) and 49-921(5); the Arizona Underground Storage Tank Act, A.R.S. §§ 49-1001 et seq.; the Arizona Water Quality Assurance Revolving Fund Act, A.R.S. §§ 49-281 through 49-287; and any successor statutes and regulations to the foregoing, as amended from time to time.

"Environmental Activity" means any actual, proposed or threatened storage, existence, release, generation, abatement, removal, disposal, handling or transportation of any Hazardous Substance from, under, into or on the Real Property.

"Environmental Requirements" means all present and future Laws (including CERCLA and the applicable provisions of the Code and regulations promulgated thereunder), orders, judgments, decrees, agreements, authorizations, consents, licenses, permits and other governmental restrictions and requirements relating to the environment or to any Hazardous Substance or Environmental Activity.

"Hazardous Substance" means, at any time, (a) any "hazardous substance" as defined in § 101(14) of CERCLA (42 U.S.C. § 9601(14)), §§ 25281(f), 25316 or any section of the Code; or (b) any additional substances or materials which at such time are classified or considered to be hazardous or toxic under the Laws of Arizona or any other applicable Laws relating to the Real Property.

"Indemnatee" means the Lender and its subsidiaries and affiliates, and the respective directors, officers, agents, attorneys, employees, participants, successors and assigns of each.

"Person" means any individual or entity, including a corporation, partnership, limited liability company, trust or other association.

"Real Property" means the property described in Exhibit A attached hereto and incorporated herein by this reference.

"Termination Date" means the earlier of (a) the time of foreclosure of the Trust Deed, (b) the time of acceptance by the Lender of a deed in lieu of foreclosure of the Trust Deed, and (c) the time of full reconveyance of the Trust Deed.

"Use" means ownership, use, development, construction, maintenance, management, operation or occupancy.

2. Representations of the Borrower. The Borrower represents and warrants to the Lender that: (a) if the Borrower or any affiliate of the Borrower has previously acquired any interest in, or obtained possession of; all or any part of the Real Property, the Borrower or such affiliate has, at all times from and after the Acquisition Date, complied in all material respects with all applicable Environmental Requirements relating to the Real Property and the Use of the Real Property, and no Environmental Activity has occurred from and after the Acquisition Date in violation of any applicable Environmental Requirements; (b) to the best knowledge of the Borrower, no Environmental Activity has occurred prior to the Acquisition Date in violation of any applicable Environmental Requirements; (c) the Use of the Real Property for its intended purpose will not result in any Environmental Activity in violation of any applicable Environmental Requirements; (d) except as otherwise disclosed in Exhibit "B", the Borrower has not otherwise engaged and does not intend to engage in any Environmental Activity in relation to the Real Property; and (e) to the best knowledge of the Borrower, and except as otherwise disclosed in Exhibit "B", (i) no other Environmental Activity has occurred at any time in relation to the Real Property, (ii) no portion of the Real Property is located within 2,000 feet of a site containing a significant disposal of hazardous waste, (iii) no notice, order, directive, complaint or other communication has been made or issued by any governmental agency or other Person alleging the occurrence of any Environmental Activity in violation of any Environmental Requirements or any loss as a result of any Environmental Activity, and no investigations, inquiries, orders, hearings, actions or other proceedings by or before any governmental agency are pending or threatened in connection with any Environmental Activity or alleged Environmental Activity, and (iv) the Borrower has no liability, absolute or contingent, in connection with any Environmental Activity.
3. Covenants of the Borrower. Unless the Lender otherwise consents in writing, the Borrower shall at all times from and after the date of this Indemnity until the Termination Date, at its sole expense: (a) comply in all material respects with all applicable Environmental Requirements relating to the Real Property and the Use of the Real Property, and not engage in or otherwise permit the occurrence of any Environmental Activity in violation of any applicable Environmental Requirements or which is not customary and incidental to the intended Use of the Real Property, provided that nothing contained in this § 3(a) shall prevent the Borrower from contesting, in good faith and by appropriate proceedings, any such Environmental Requirements or the interpretation or application of such Environmental Requirements; and (b) deliver to the Lender, promptly following the occurrence of any such event, notice of the discovery by the Borrower of any event the occurrence of which would render any Representation contained in § 2 of this Indemnity incorrect in any respect if made at the time of such discovery.
4. Indemnity by the Borrower. The Borrower shall indemnify, defend and save and hold harmless each Indemnitee from and against, and shall pay on demand, any and all losses, liabilities, damages, costs, expenses and charges (including the reasonable fees, charges and disbursements of internal and external legal counsel) suffered or incurred by any Indemnitee as a result of (a) the occurrence, prior to the Termination Date, of any Environmental Activity or any failure of the Borrower or any other Person to comply with all applicable Environmental Requirements relating to the Real Property or the Use of the Real Property, (b) the occurrence, on or after the Termination Date, of any Environmental Activity which has resulted directly or indirectly from any Environmental Activity occurring prior to the Termination Date, (c) any failure of any Representation of the Borrower set forth in § 2 above to be correct in all respects as of the date of this Indemnity, (d) any failure of the Borrower to perform any covenant set forth in § 3 above, or (e) any claim, demand or cause of action, or any investigation, inquiry, order, hearing, action or other proceeding by or before any Governmental Agency, whether meritorious or not, which directly or indirectly relates to, arises from or is based on the occurrence or allegation of any of the matters described in clauses (a) through (d) of this § 4.
5. Costs and Expenses. The Borrower shall pay to each Indemnitee all costs, expenses and charges (including the reasonable fees, charges and disbursements of internal and external legal counsel) incurred by any Indemnitee in connection with this Indemnity or the enforcement of the terms of this Indemnity.

6. Survival of Indemnity. The Borrower's obligations under this Indemnity shall survive the Termination Date and the making and repayment of the Loan and any transfer of the Borrower's title to the Real Property (whether by sale, foreclosure of the Trust Deed or by deed in lieu of foreclosure, or otherwise).
7. Security. Anything contained in any of the Loan Documents to the contrary notwithstanding, (a) this Indemnity and the obligations of the Borrower under this Indemnity shall not be secured by the Trust Deed, and (b) the Borrower shall have no obligation or liability under any of the other Loan Documents for any obligation or liability of the Borrower under this Indemnity.
8. Waiver of Jury Trial. EACH OF THE LENDER AND THE BORROWER WAIVE TRIAL BY JURY IN ANY ACTION OR OTHER PROCEEDING INCLUDING COUNTERCLAIMS), WHETHER AT LAW OR EQUITY, BROUGHT BY THE LENDER OR THE BORROWER AGAINST THE OTHER ON MATTERS ARISING OUT OF OR IN ANY WAY RELATED TO OR CONNECTED WITH THIS INDEMNITY, THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY TRANSACTION CONTEMPLATED BY, OR THE RELATIONSHIP BETWEEN THE LENDER AND THE BORROWER OR ANY OTHER LOAN PARTY OR ANY ACTION OR INACTION BY ANY PARTY UNDER, ANY OF THE LOAN DOCUMENTS.
9. Time. Time is of the essence in all aspects of this Environmental Indemnity.

By: \_\_\_\_\_  
David Login Perolis

By: \_\_\_\_\_  
Jensa Dawn Perolis

EXHIBIT "A"

Real property in the City of Surprise, County of MARICOPA, State of Arizona, described as follows:

LOT 17, OF SURPRISE FARMS - PHASE 2, PARCEL 5, ACCORDING TO THE PLAT OF RECORD IN THE OFFICE OF THE COUNTY RECORDER OF MARICOPA COUNTY, ARIZONA, RECORDED IN BOOK 665 OF MAPS, PAGE 25, AN CERTIFICATE OF CORRECTION RECORDED IN DOCUMENT NO. 2004-1274613.

APN #: 502-84-834 0

Commonly known as: 17781 W Ironwood Street, Surprise, Arizona 85388

**EXHIBIT "B"**

**ENVIRONMENTAL DISCLOSURES\***

NONE. Initial \_\_\_\_\_ Initial \_\_\_\_\_

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