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

MADE BY

200 WEST MADISON, L.L.C., as Mortgagor

to

KEYBANK NATIONAL ASSOCIATION,  
as Agent for the benefit of itself and other lending institutions, as Mortgagee

Dated as of: February 21, 2007

PREPARED BY AND UPON RECORDATION RETURN TO:

Katten Muchin Rosenman LLP  
525 West Monroe Street  
Chicago, Illinois 60661  
Attention: Mark C. Simon, Esq.

28

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

Project Common Known As  
"200 West Madison Street"

THIS MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is made as of February 21, 2007, by 200 WEST MADISON, L.L.C., a Delaware limited liability company ("Mortgagor"), whose address is c/o Tishman Sreyer Properties, L.P., 45 Rockefeller Plaza, New York, New York 10011, in favor of KEYBANK NATIONAL ASSOCIATION, having an office at 127 Public Square, Cleveland, Ohio 44114, its successors and assigns, in its capacity as administrative agent ("Agent") for the benefit of the lenders, their successors and assigns, from time to time party to the Loan Agreement (as hereinafter defined) (collectively, "Mortgagee").

### 1. Grant and Secured Obligations.

1.1 Grant. For the purpose of securing payment and performance of the Secured Obligations defined and described in Section 1.2 below, Mortgagor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages and warrants to Mortgagee, with right of entry and possession, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "Property"):

(a) The real property located in the County of Cook, State of Illinois, as described in Exhibit A, together with all existing and future easements and rights affording access to it (the "Premises"); together with

(b) All buildings, structures and improvements now located or later to be constructed on the Premises (the "Improvements"); together with

(c) All existing and future appurtenances, privileges, easements, franchises and tenements of the Premises, including all minerals, oil, gas, other hydrocarbons and associated substances, sulphur, nitrogen, carbon dioxide, helium and other commercially valuable substances which may be in, under or produced from any part of the Premises, all development rights and credits, air rights, water, water rights (whether riparian, appropriative or otherwise, and whether or not appurtenant) and water stock, and any Premises lying in the streets, roads or avenues, open or proposed, in front of or adjoining the Premises and Improvements; together with

(d) All existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions ("leases") relating to the use and enjoyment of all or any part of the Premises and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases; together with

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(c) All real property, improvements on such real property, and all appurtenances and other property and interests of any kind or character, whether described in Exhibit A or not, which may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements; together with

(f) All goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Premises and Improvements, whether stored on the Premises or elsewhere, including all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage; together with

(g) All building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises or Improvements; together with

(h) All of Mortgagor's interest in and to all operating accounts, the Loan funds, whether disbursed or not, all reserves set forth in the Budget, and any other bank accounts of Mortgagor, which arise from or relate to construction on the Premises or to any business now or later to be conducted on it, or to the Premises and Improvements generally; together with

(i) All rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including all earnest money sales deposits) or deposited by Mortgagor with third parties (including all utility deposits), contracts, contract rights, management contracts, development and use rights, governmental permits and licenses, applications, construction, architectural and engineering contracts, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, Interest Rate Agreements, drafts and letters of credit, which arise from or relate to construction on the Premises or to any business now or later to be conducted on it, or to the Premises and Improvements generally; together with

(j) All insurance policies pertaining to the Premises and all proceeds, including all claims to and demands for them, of the voluntary or involuntary conversion of any of the Premises, Improvements or the other property described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Premises, Improvements or the other property described above or any part of them, or breach of warranty in connection

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with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material fact; together with

(k) All books and records pertaining to any and all of the property described above, including computer-readable memory and any computer hardware or software necessary to access and process such memory (“Books and Records”); together with

(l) All proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

Capitalized terms used above and elsewhere in this Mortgage without definition have the meanings given them in the Loan Agreement referred to in Subsection 1.2(a)(iii) below.

## 1.2 Secured Obligations.

(a) Mortgagor makes the grant, conveyance, and mortgage set forth in Section 1.1, above, and grants the security interest set forth in Section 3 below for the purpose of securing the following obligations (the “Secured Obligations”) in any order of priority that Mortgagee may choose:

(i) Payment of all obligations at any time owing under the promissory note bearing even date herewith (together with all extensions, renewals, restatements, modifications, substitutions and amendments thereof and all instruments issued from time to time in exchange therefor, and any new note delivered to Lender evidencing an interest in the indebtedness evidenced by said note, collectively the “Note”), payable by Mortgagor as maker in the maximum aggregate stated principal amount of One Hundred Forty-Five Million and 00/100 Dollars (\$145,000,000.00) to the order of Lender (as defined in the Loan Agreement) which Note is due and payable on the third anniversary hereof, subject to any extensions pursuant to the Loan Agreement; and

(ii) Payment and performance of all obligations of Mortgagor under this Mortgage; and

(iii) Payment and performance of all obligations of Mortgagor under a Loan Agreement bearing even date herewith between Mortgagor as “Borrower”, Mortgagee and Lender (the “Loan Agreement”); and

(iv) Payment and performance of any obligations of Mortgagor under any Loan Documents which are executed by Mortgagor; and

(v) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties’ agreement that the advance or obligation be secured by this Mortgage;

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(vi) Payment and performance of any obligations of Mortgagor under any Interest Rate Agreement between Borrower and Agent; and

(vii) Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

(b) All persons who may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. Such terms include any provisions in the Notes or the Loan Agreement which permit borrowing, repayment and reborrowing, or which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

## 2. Assignment of Rents.

2.1 Assignment. Mortgagor hereby irrevocably, absolutely, presently and unconditionally assigns to Mortgagee all rents, royalties, issues, profits, revenue, income, accounts, proceeds and other benefits of the Property, whether now due, past due or to become due, including all prepaid rents and security deposits (some or all collectively, as the context may require, "Rents"). This is an absolute assignment, not an assignment for security only.

2.2 Grant of License. Mortgagee hereby confers upon Mortgagor a license ("License") to collect and retain the Rents (subject to the express terms of the Loan Documents) as they become due and payable, so long as no Event of Default, as defined in Section 6.2 below, shall exist and be continuing. If an Event of Default has occurred and is continuing, Mortgagee shall have the right, which it may choose to exercise in its reasonable discretion, to terminate this License without notice to or demand upon Mortgagor, and without regard to the adequacy of Mortgagee's security under this Mortgage.

2.3 Collection and Application of Rents. Except as otherwise provided by Law and subject to the License granted to Mortgagor under Section 2.2 above, Mortgagee has the right, power and authority to collect any and all Rents. Mortgagor hereby appoints Mortgagee its attorney-in-fact to perform any and all of the following acts at any time an Event of Default exists, if and at the times when Mortgagee in its reasonable discretion may so choose:

- (a) Demand, receive and enforce payment of any and all Rents; or
- (b) Give receipts, releases and satisfactions for any and all Rents; or
- (c) Sue either in the name of Mortgagor or in the name of Mortgagee for any and all Rents.

Mortgagee and Mortgagor agree that the mere recordation of the assignment granted herein entitles Mortgagee immediately to collect and receive rents upon the occurrence of an Event of Default, as defined in Section 6.2, which is continuing, without first taking any acts of enforcement under applicable law, such as, but not limited to, providing notice to Mortgagor, filing foreclosure proceedings, or seeking and/or obtaining the appointment of a receiver.

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Further, Mortgagee's right to the Rents does not depend on whether or not Mortgagee takes possession of the Property as permitted under Subsection 6.3(c). In Mortgagee's reasonable discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Property. Mortgagee shall apply all Rents collected by it in the manner provided under Section 6.6. If an Event of Default occurs while Mortgagee is in possession of all or part of the Property and is collecting and applying Rents as permitted under this Mortgage, Mortgagee and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

2.4 Mortgagee Not Responsible. Under no circumstances shall Mortgagee have any duty to produce Rents from the Property. Regardless of whether or not Mortgagee, in person or by agent, takes actual possession of the Premises and Improvements, unless Mortgagee agrees in writing to the contrary, Mortgagee is not and shall not be deemed to be:

- (a) A "mortgagee in possession" for any purpose; or
- (b) Responsible for performing any of the obligations of the lessor under any lease; or
- (c) Responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Property, or any negligence in the management, upkeep, repair or control of the Property, unless such waste, condition or negligence is caused by the gross negligence, willful misconduct or bad faith of Mortgagee (including any willful breach by Mortgagee of its obligations under this Mortgage, the Loan Agreement or any other Loan Document); or
- (d) Liable in any manner for the Property or the use, occupancy, enjoyment or operation of all or any part of it, except to the extent a loss to the same arises by reason of the gross negligence or willful misconduct of Mortgagee (including the willful breach by Mortgagee of its obligations under this Mortgage, the Loan Agreement or any other Loan Document).

2.5 Leasing. Mortgagor shall not accept any deposit or prepayment of rents under the leases for any rental period exceeding one (1) month without Mortgagee's prior written consent not to be unreasonably withheld. Mortgagor shall not lease the Property or any part of it except strictly in accordance with the Loan Agreement.

### 3. Grant of Security Interest.

3.1 Security Agreement. The parties intend for this Mortgage to create a lien on the Property, and an absolute assignment of the Rents, all in favor of Mortgagee. The parties acknowledge that some of the Property and some or all of the Rents may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be or be determined to be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the Uniform Commercial Code of the State in which the Property is located, covering all such Property and Rents.

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3.2 Financing Statements. Mortgagor authorizes Mortgagee to file one or more financing statements and such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Property or Rents. As provided in Section 5.9 below, Mortgagor shall pay all reasonable out-of-pocket fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In case Mortgagor fails to execute any documents required for the perfection or continuation of any security interest within ten (10) Business Days after written request, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Mortgage or the rights or obligations of the parties under it.

#### 4. Fixture filing.

This Mortgage constitutes a financing statement filed as a fixture filing under Article 9 of the Uniform Commercial Code in the State in which the Property is located, as amended or recodified from time to time, covering any Property which now is or later may become fixtures attached to the Premises or Improvements. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preambles of this Mortgage.

#### 5. Rights and Duties of the Parties.

5.1 Representations and Warranties. Mortgagor represents and warrants that:

(a) Mortgagor lawfully possesses and holds fee simple title to all of the Premises and Improvements;

(b) Mortgagor has or will have insurable title to all Property other than the Premises and Improvements;

(c) Mortgagor has the full and unlimited power, right and authority to encumber the Property and assign the Rents;

(d) This Mortgage will create a first and prior lien on the Property after such Mortgage is properly recorded in the appropriate records with the Assignment of Leases and Rents and any Uniform Commercial Code financing statements required to be filed in connection herewith;

(e) The Property includes all property and rights which may be reasonably necessary to promote the present and any reasonable future beneficial use and enjoyment of the Premises and Improvements;

(f) Mortgagor owns any Property which is personal property free and clear of any security agreements, reservations of title or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office; and

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(g) Mortgagor's place of business, or its chief executive office if it has more than one place of business, is located at 45 Rockefeller Plaza, New York, New York 10111.

5.2 Taxes, and Assessments. Mortgagor shall pay prior to delinquency all taxes, levies, charges and assessments, in accordance with Section 15.1(h) of the Loan Agreement.

5.3 Performance of Secured Obligations. Mortgagor shall promptly pay and perform each Secured Obligation in accordance with its terms.

5.4 Liens, Charges and Encumbrances. Mortgagor shall immediately discharge any lien on the Property which Mortgagee has not consented to in writing in accordance with the terms of Section 15.1(c) of the Loan Agreement.

5.5 Damages and Insurance and Condemnation Proceeds. In the event of any casualty or condemnation of the Property, the provisions of Article 16 of the Loan Agreement shall govern.

5.6 Maintenance and Preservation of Property.

(a) Mortgagor shall insure the Property as required by the Loan Agreement and keep the Property in good condition and repair in accordance with the terms of the Loan Agreement.

(b) Mortgagor shall not remove or demolish (other than in accordance with the terms of the Loan Agreement) the Property or any part of it, or alter, restore or add to the Property, or initiate or consent to any material adverse change in any zoning or other Premises use classification which affects the Property or any part of it, except as permitted or required by the Loan Agreement or with Mortgagee's express prior written consent in each instance.

(c) If all or part of the Property becomes damaged or destroyed, Mortgagor shall promptly and completely repair and/or restore the Property in a good and workmanlike manner in accordance with sound building practices, regardless of whether or not Mortgagee is obligated to disburse Proceeds or other sums to pay costs of the work of repair or reconstruction under Article 16 of the Loan Agreement.

(d) Mortgagor shall not commit or allow any act upon or use of the Property which would materially violate: (i) any applicable Laws or order of any Governmental Authority, whether now existing or later to be enacted and whether foreseen or unforeseen; or (ii) any public or private covenant, condition, restriction or equitable servitude affecting the Property. Mortgagor shall not bring or keep any article on the Property or cause or allow any condition to exist on it, if that could invalidate or would be prohibited by any insurance coverage required to be maintained by Mortgagor on the Property or any part of it under the Loan Agreement.



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(e) Mortgagor shall not commit waste of the Property, including those acts or omissions characterized under the Loan Agreement as waste which arises out of Hazardous Material.

(f) Mortgagor shall perform all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value.

5.7 Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any of the following acts without incurring any liability or giving notice to any person:

- (a) Release any person liable for payment of any Secured Obligation;
- (b) Extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation;
- (c) Accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security;
- (d) Alter, substitute or release any property securing the Secured Obligations;
- (e) Consent to the making of any plat or map of the Property or any part of it;
- (f) Join in granting any easement or creating any restriction affecting the Property; or
- (g) Join in any subordination or other agreement affecting this Mortgage or the lien of it; or
- (h) Release the Property or any part of it.

5.8 Release. When all of the Secured Obligations have been paid in full and all reasonable out-of-pocket fees and other sums owed by Mortgagor under Section 5.9 of this Mortgage and the other Loan Documents have been received, each covenant and condition of this Mortgage and the lien created thereby shall automatically be terminated and void. Mortgagee shall release this Mortgage, the lien created thereby, and all notes and instruments evidencing the Secured Obligations. Mortgagor shall pay any reasonable out-of-pocket costs of preparation and recordation of such release.

5.9 Compensation, Exculpation, Indemnification.

(a) Mortgagor agrees to pay reasonable out-of-pocket fees in the maximum amounts legally permitted, or reasonable out-of-pocket fees as may be charged by Mortgagee when the law provides no maximum limit, for any services that Mortgagee may render in connection with this Mortgage, including Mortgagee's providing a statement of the Secured Obligations or providing evidence of the release pursuant to Section 5.8 above. Mortgagor shall also pay or reimburse all of Mortgagee's reasonable

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out-of-pocket costs and expenses which may be incurred in rendering any such services. Mortgagor further agrees to pay or reimburse Mortgagee for all reasonable out-of-pocket costs, expenses and other advances which may be incurred or made by Mortgagee and/or Lender in any efforts to enforce any terms of this Mortgage, including any rights or remedies afforded to Mortgagee under Section 6.3, whether any lawsuit is filed or not, or in defending any action or proceeding arising under or relating to this Mortgage, including reasonable out-of-pocket attorneys' fees and other reasonable out-of-pocket legal costs, reasonable out-of-pocket costs of any Foreclosure Sale (as defined in Subsection 6.3(i) below) and any reasonable out-of-pocket cost of evidence of title. If Mortgagee chooses to dispose of Property through more than one Foreclosure Sale, Mortgagor shall pay all reasonable out-of-pocket costs, expenses or other advances that may be incurred or made by Mortgagee in each of such Foreclosure Sales.

(b) Neither Mortgagee nor Lender shall be directly or indirectly liable to Mortgagor or any other person as a consequence of any of the following:

- (i) Mortgagee's exercise of or failure to exercise any rights, remedies or powers granted to Mortgagee in this Mortgage;
- (ii) Mortgagee's failure or refusal to perform or discharge any obligation or liability of Mortgagor under any agreement related to the Property or under this Mortgage; or
- (iii) Any loss sustained by Mortgagor or any third party resulting from Mortgagee's failure to lease the Property, or from any other act or omission of Mortgagee in managing the Property, after an Event of Default, unless the loss is caused by the willful misconduct and gross negligence of Mortgagee.

Mortgagor hereby expressly waives and releases all liability of the types described above, and agrees that no such liability shall be asserted against or imposed upon Mortgagee or Lender.

(c) Mortgagor agrees to indemnify Mortgagee and Lender against and hold it harmless from all losses, damages, liabilities, claims, causes of action, judgments, court costs, reasonable out-of-pocket attorneys' fees and other reasonable out-of-pocket legal expenses, reasonable out-of-pocket cost of evidence of title, reasonable out-of-pocket cost of evidence of value, and other reasonable out-of-pocket costs and expenses which it may suffer or incur, except those caused by the gross negligence or willful misconduct of Mortgagee (including any willful breach by Mortgagee of its obligations under this Mortgage, the Loan Agreement or any other Loan Document); provided, however, that Mortgagor shall not be liable for any of the foregoing to the extent same arises after Mortgagee or any agent or successor thereof or any holder of the Note or any receiver takes title to or possession of the Property, unless such losses are a result of the acts or omissions of Mortgagor:

- (i) In performing any act required by this Mortgage or any of the other Loan Documents or by law;

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(ii) Because of any failure of Mortgagor to perform any of its obligations; or

(iii) Because of any alleged obligation of or undertaking by Mortgagee, on its own behalf or as Agent of Lender, to perform or discharge any of the representations, warranties, conditions, covenants or other obligations in any document relating to the Property other than the Loan Documents.

This agreement by Mortgagor to indemnify Mortgagee and Lender shall survive the release and cancellation of any or all of the Secured Obligations and the full or partial release of this Mortgage.

(d) Mortgagor shall pay all obligations to pay money arising under this Section 5.9 within ten (10) business days after written notice from Mortgagee. Each such obligation shall be added to, and considered to be part of, the principal of the Notes, and shall bear interest from the date of such written notice at the Default Rate.

5.10 Defense and Notice of Claims and Actions. At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and title to and right of possession of the Property, and the security of this Mortgage and the rights and powers of Mortgagee created under it, against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing if any claim is asserted which does or could materially affect any such matters, or if any action or proceeding is commenced which reasonably alleges or relates to any such claim and could have a material adverse effect on the Property.

5.11 Subrogation. Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan secured by this Mortgage.

5.12 Site Visits, Observation and Testing. Mortgagee and Lender shall have the right to enter and visit the Property in accordance with Section 16.1(c) of the Loan Agreement.

5.13 Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of the Books and Records; and (c) Mortgagor's name or entity structure. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Premises and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

## 6. Accelerating Transfers, Default and Remedies.

### 6.1 Accelerating Transfers.

(a) "Accelerating Transfer" means any Transfer not expressly permitted under Article 17 of the Loan Agreement.

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(b) Mortgagor acknowledges that Mortgagee and/or Lender is making one or more advances under the Loan Agreement in reliance on the expertise, skill and experience of Mortgagor; thus, the Secured Obligations include material elements similar in nature to a personal service contract. In consideration of such reliance by Mortgagee and Lender, Mortgagor agrees that Mortgagor shall not make any Accelerating Transfer, unless the transfer is preceded by Mortgagee's express written consent to the particular transaction and transferee. Mortgagee may withhold such consent in its sole discretion. If any Accelerating Transfer occurs, Mortgagee in its sole discretion may declare all of the Secured Obligations to be immediately due and payable, and Mortgagee may invoke any rights and remedies provided by Section 6.3 of this Mortgage.

6.2 Events of Default. The term "Event of Default" is defined in the Loan Agreement.

6.3 Remedies. Upon the occurrence and during the continuance of an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately.

(b) Receiver. Mortgagee shall, as a matter of right, without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard for the solvency or insolvency of Mortgagor or the then value of the Property, to the extent permitted by applicable law, be entitled to have a receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by applicable law, all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property, and such rights and powers as Mortgagee would have, upon entering and taking possession of the Property under subsection (c) below.

(c) Entry. Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Mortgagee may in its reasonable discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: taking and possessing all of Mortgagor's or the then owner's Books and Records; entering into, enforcing, modifying or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Mortgagee; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Mortgagee so requests, Mortgagor shall assemble all of the Property that has been removed from the Premises and make all of it

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available to Mortgagee at the site of the Premises. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact to perform such acts and execute such documents (while an Event of Default exists) as Mortgagee in its reasonable discretion may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments.

(d) Cure; Protection of Security. Mortgagee may cure any breach or default of Mortgagor (after applicable notice and cure periods, unless an emergency or exigent circumstances exist), and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may in its reasonable discretion consider necessary and appropriate to protect the security of this Mortgage, including, without limitation, completing construction of the improvements at the Property contemplated by the Loan Agreement. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under, this Mortgage; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which in Mortgagee's reasonable judgment is or may be senior in priority to this Mortgage, such judgment of Mortgagee or to be conclusive as among the parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under the Loan Agreement; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Mortgagee may take any of the actions permitted under this Subsection 6.3(d), either with or without giving notice to any person. Any amounts expended by Mortgagee under this Subsection 6.3(d) shall be secured by this Mortgage.

(e) Uniform Commercial Code Remedies. Mortgagee may exercise any or all of the remedies granted to a secured party under the Uniform Commercial Code in the State in which the Property is located.

(f) Foreclosure; Lawsuits. Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclose the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee, Lender, any one or more of Lender, or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction.

(g) Other Remedies. Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the Secured Obligations or any part thereof, without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against

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Mortgagor. Mortgagee shall have the right to pursue all remedies afforded to a mortgagee under applicable law, and shall have the benefit of all of the provisions of such applicable law, including all amendments thereto which may become effective from time to time after the date hereof.

(h) Sale of Personal Property. Mortgagee shall have the right, in its reasonable discretion, to cause some or all of the Property, which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) For purposes of this power of sale, Mortgagee may elect to treat as personal property any Property which is intangible or which can be severed from the Premises or Improvements without causing structural damage. If it chooses to do so, Mortgagee may dispose of any personal property, in any manner permitted by Article 9 of the Uniform Commercial Code of the State in which the Property is located, including any public or private sale, or in any manner permitted by any other applicable law.

(ii) In connection with any sale or other disposition of such Property, Mortgagor agrees that the following procedures constitute a commercially reasonable sale: Mortgagee shall mail written notice of the sale to Mortgagor not later than thirty (30) days prior to such sale. Mortgagee will publish notice of the sale in a local daily newspaper of general circulation. Upon receipt of any written request, Mortgagee will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding, Mortgagee shall be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equals the fair value of the Property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable.

(i) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, Mortgagee may:

(i) Designate the order in which the lots, parcels and/or items shall be sold-or disposed of or offered for sale or disposition; and

(ii) Elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any such sale or disposition, a "Foreclosure Sale"; and any two or more, "Foreclosure Sales").

If Mortgagee chooses to have more than one Foreclosure Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as Mortgagee may deem to be in its best interests. No Foreclosure Sale

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shall terminate or affect the liens of this Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

6.4 Credit Bids. At any Foreclosure Sale, any person, including Mortgagor or Mortgagee, may bid for and acquire the Property or any part of it to the extent permitted by then applicable law. Instead of paying cash for such property, Mortgagee may settle for the purchase price by crediting the sales price of the property against the following obligations:

(a) First, the portion of the Secured Obligations attributable to the reasonable out-of-pocket expenses of sale, reasonable out-of-pocket costs of any action and any other reasonable out-of-pocket sums for which Mortgagor is obligated to pay or reimburse Mortgagee under Section 5.9 of this Mortgage; and

(b) Second, all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose.

6.5 Application of Foreclosure Sale Proceeds. Mortgagee shall apply the proceeds of any Foreclosure Sale in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the reasonable out-of-pocket expenses of sale, reasonable out-of-pocket costs of any action and any other reasonable out-of-pocket sums for which Mortgagor is obligated to reimburse Mortgagee or Lender under Section 5.9 of this Mortgage;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee or Lender under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it as determined by court order.

6.6 Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it, and any and all sums other than proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 6.3, above, in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the reasonable out-of-pocket costs and expenses of operation and collection that may be incurred by Mortgagee, Lender, or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it as determined by court order.

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Neither Mortgagee nor Lender shall have any liability for any funds which it does not actually receive.

## 7. Miscellaneous Provisions.

7.1 Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Mortgagee and/or Lender and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property, all of which are secured hereby as fully and with the same effect as if set forth herein.

### 7.2 No Waiver or Cure.

(a) Each waiver by Mortgagee must be in writing, and no waiver shall be construed as a continuing waiver. No waiver shall be implied from any delay or failure by Mortgagee to take action on account of any default of Mortgagor. Consent by Mortgagee to any act or omission by Mortgagor shall not be construed as a consent to any other or subsequent act or omission or to waive the requirement for Mortgagee's consent to be obtained in any future or other instance.

(b) If any of the events described below occurs, that event alone shall not cure or waive any breach, Event of Default or notice of default under this Mortgage or invalidate any act performed pursuant to any such default or notice; or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid and performed and all other defaults under the Loan Documents have been cured); or impair the security of this Mortgage; or prejudice Mortgagee or any receiver in the exercise of any right or remedy afforded any of them under this Mortgage; or be construed as an affirmation by Mortgagee of any tenancy, lease or option, or a subordination of the lien of this Mortgage.

(i) Mortgagee, its agent or a receiver takes possession of all or any part of the Property in the manner provided in Subsection 6.3(c).

(ii) Mortgagee collects and applies Rents as permitted under Sections 2.3 and 6.6 above, either with or without taking possession of all or any part of the Property.

(iii) Mortgagee receives and applies to any Secured Obligation any proceeds of any Property, including any proceeds of insurance policies, condemnation awards, or other claims, property or rights assigned to Mortgagee under Section 5.5 above.

(iv) Mortgagee or Lender makes a site visit, observes the Property and/or conducts tests as permitted under Section 5.12 above.



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(v) Mortgagee receives any sums under this Mortgage or any proceeds of any collateral held for any of the Secured Obligations, and applies them to one or more Secured Obligations.

(vi) Mortgagee or any receiver invokes any right or remedy provided under this Mortgage.

## 7.3 Powers of Mortgagee.

(a) If Mortgagee performs any act which it is empowered or authorized to perform under this Mortgage, including any act permitted by Section 5.7 or Subsection 6.3(a), of this Mortgage, that act alone shall not release or change the personal liability of any person for the payment and performance of the Secured Obligations then outstanding, or the lien of this Mortgage on all or the remainder of the Property for full payment and performance of all outstanding Secured Obligations. The liability of the original Mortgagor shall not be released or changed if Mortgagee grants any successor in interest to Mortgagor any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Mortgagee shall not be required to comply with any demand by the original Mortgagor that Mortgagee refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

(b) Mortgagee may take any of the actions permitted under Subsections 6.3(b) and/or 6.3(c) regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

(c) From time to time, Mortgagee may apply to any court of competent jurisdiction for aid and direction in executing and enforcing the rights and remedies created under this Mortgage. Mortgagee may from time to time obtain orders or decrees directing, confirming or approving acts in executing and enforcing these rights and remedies.

7.4 Merger. No merger shall occur as a result of Mortgagee or any Lender acquiring any other estate in or any other lien on the Property unless Mortgagee or such Lender, as the case may be, consents to a merger in writing.

7.5 Joint and Several Liability. If Mortgagor consists of more than one person, each shall be jointly and severally liable for the faithful performance of all of Mortgagor's obligations under this Mortgage.

7.6 Applicable Law. This Mortgage shall be governed by the laws of the State of Illinois.

7.7 Successors in Interest. The terms, covenants and conditions of this Mortgage shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties. However, this Section 7.7 does not waive the provisions of Section 6.1 above.

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## 7.8 Interpretation.

(a) Whenever the context requires, all words used in the singular will be construed to have been used in the plural, and vice versa, and each gender will include any other gender. The captions of the sections of this Mortgage are for convenience only and do not define or limit any terms or provisions. The word “include(s)” means “include(s), without limitation,” and the word “including” means “including, but not limited to.”

(b) The word “obligations” is used in its broadest and most comprehensive sense, and includes all primary, secondary, direct, indirect, fixed and contingent obligations. It further includes all principal, interest, prepayment charges, late charges, reasonable loan fees and any other reasonable out-of-pocket fees and charges accruing or assessed at any time, as well as all obligations to perform acts or satisfy conditions.

(c) No listing of specific instances, items or matters in any way limits the scope or generality of any language of this Mortgage. The Exhibit to this Mortgage is hereby incorporated in this Mortgage.

7.9 Costs, Expenses and Fees. Whenever Mortgagor is obligated to pay or reimburse Mortgagee for any costs, expenses or fees, those costs, expenses or fees shall only include the reasonable out-of-pocket costs, expenses or fees.

7.10 Waiver of Statutory Rights. To the extent permitted by law, Mortgagor hereby agrees that it shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called “Moratorium Laws,” now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but 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 Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under any judgment 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 Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of applicable law.

7.11 Severability. If any provision of this Mortgage should be held unenforceable or void, that provision shall be deemed severable from the remaining provisions and shall in no way affect the validity of this Mortgage except that if such provision relates to the payment of any monetary sum, then Mortgagee may, at its option, declare all Secured Obligations immediately due and payable.

7.12 Notices. Any notice or demand which is made hereunder shall be delivered in accordance with the notice requirements of the Loan Agreement

7.13 Future Advances. The total amount of indebtedness secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements that the Lender may, but shall not be obligated to, make under

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this Mortgage, the Loan Documents or any other document with respect thereto) at any one time outstanding may be substantially less but shall not exceed Two Hundred Ninety Million and 00/100 Dollars (\$290,000,000), plus interest thereon, and any disbursements made for the enforcement of this Mortgage and any remedies hereunder, payment of taxes, special assessments, utilities or insurance on the Property and interest on such disbursements and all disbursements by Lender pursuant to applicable law (all such indebtedness being hereinafter referred to as the maximum amount secured hereby). 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.

7.14 Mortgagee's Lien for Service Charge and Expenses. At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures (in addition to any Loan proceeds disbursed from time to time) the payment of any and all loan commissions, service charges, liquidated damages, reasonable out-of-pocket expenses and advances due to or incurred by Mortgagee pursuant to the terms of the Loan Agreement or any of the other Loan Documents, not to exceed the maximum amount secured hereby.

7.15 WAIVER OF TRIAL BY JURY. MORTGAGOR AND MORTGAGEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THAT IT MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION ARISING IN ANY WAY IN CONNECTION WITH THIS MORTGAGE, THE NOTES, OR ANY OF THE OTHER LOAN DOCUMENTS, THE LOAN OR ANY OTHER STATEMENTS OR ACTIONS OF MORTGAGOR OR MORTGAGEE. MORTGAGOR AND MORTGAGEE EACH ACKNOWLEDGES THAT IT HAS BEEN REPRESENTED IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS DISCUSSED THIS WAIVER WITH SUCH LEGAL COUNSEL. MORTGAGOR AND MORTGAGEE EACH FURTHER ACKNOWLEDGES THAT (i) IT HAS READ AND UNDERSTANDS THE MEANING AND RAMIFICATIONS OF THIS WAIVER, (ii) THIS WAIVER IS A MATERIAL INDUCEMENT FOR MORTGAGEE TO MAKE THE LOAN, ENTER INTO THIS MORTGAGE AND EACH OF THE OTHER LOAN DOCUMENTS, AND (iii) THIS WAIVER SHALL BE EFFECTIVE AS TO EACH OF SUCH OTHER LOAN DOCUMENTS AS IF FULLY INCORPORATED THEREIN.

7.16 Inconsistencies.

In the event of any inconsistency between this Mortgage and the Loan Agreement, the terms hereof shall be controlling as necessary to create, preserve and/or maintain a valid security interest upon the Property, otherwise the provisions of the Loan Agreement shall be controlling.

7.17 UCC Financing Statements. Mortgagor hereby authorizes Mortgagee to file UCC financing statements to perfect Mortgagee's security interest in any part of the Property. In addition, Mortgagor agrees to sign any and all other documents that Mortgagee deems necessary in its reasonable discretion to perfect, protect, and continue Mortgagee's lien and security interest in the Property.

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7.18 Certain Matters Relating to Property Located in the State of Illinois. With respect to the Property which is located in the State of Illinois, notwithstanding anything contained herein to the contrary:

(a) All advances, disbursements and expenditures made by Mortgagee before and during foreclosure, prior to sale, and where applicable, after sale, for the following purposes, including interest thereon at the Default Rate (as defined in the Loan Agreement), are hereinafter referred to as "Protective Advances" and shall constitute additional indebtedness hereunder and shall be secured by the lien hereof:

(i) any amount for restoration or rebuilding in excess of the actual or estimated proceeds of insurance or condemnation award for the purpose of such repair or replacement;

(ii) advances in accordance with the terms of this Mortgage to: (i) protect, preserve or restore the Property; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq., as amended from time to time ("Act");

(iii) payments of (i) when due installments of principal, interest or other obligations in accordance with the terms of any Prior Encumbrance (as hereinafter defined); (ii) when due installments of real estate taxes and other Impositions; (iii) other obligations authorized by this Mortgage; or (iv) with court approval any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, all as referred to in Section 15-1505 of the Act;

(iv) reasonable out-of-pocket attorneys' fees and other reasonable out-of-pocket costs actually incurred in connection with the foreclosure of this Mortgage as referred to in Sections 1504(d)(2) and 15-1510 of the Act and in connection with any other litigation or administrative proceeding to which the Mortgagee may be or become or be threatened or contemplated to be a party, including probate and bankruptcy proceedings, or in the preparation for the commencement or defense of any such suit or proceeding; including filing fees, appraisers' fees, outlays for documents and expert evidence, witness fees, stenographer's charges, publication costs, and reasonable out-of-pocket costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title charges and examinations, foreclosure minutes, title insurance policies, appraisals, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute or defend such suit or, in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Property;

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(v) Mortgagee's reasonable out-of-pocket fees and costs arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(vi) payment by Mortgagee of taxes and assessments as required of Mortgagor by Section 5.2, of this Mortgage;

(vii) Mortgagee's advances of any amount required to make up a deficiency in deposits for installments of Impositions, as may be required of Mortgagor under this Mortgage;

(viii) reasonable out-of-pocket expenses deductible from proceeds of sale referred to in Subsections (a) and (b) of Section 15-1512 of the Act; and

(ix) reasonable out-of-pocket expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if any of the Property consists of an interest in a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (ii) premiums upon casualty and liability insurance made by Mortgagee whether or not Mortgagee or receiver is in possession, if reasonably required, without regard to the limitation to maintaining of insurance in effect at the time any receiver or mortgagee takes possession of the Property imposed by Subsection (c)(1) of Section 15-1704 of the Act; (iii) payments required or deemed by Mortgagee to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, reciprocal easement agreement, agreement with any adjoining land owners or other instruments creating covenants or restrictions for the benefit of or affecting the Property; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the premises is a member in any way affecting the Property; (v) operating deficits incurred by Mortgagee in possession or reimbursed by Mortgagee to any receiver; (vi) reasonable out-of-pocket fees and costs incurred to obtain an environmental assessment report relating to the Property; and (vii) any monies expended in excess of the face amount of the Notes.

(b) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded, pursuant to Subsection (b)(5) of Section 15-1302 of the Act.

The Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, be included in:

(i) determination of the amount of indebtedness secured by this Mortgage at any time;

(ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent amendment of such judgment, supplemental judgments, orders, adjudications or findings by the court of any

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additional indebtedness becoming due after entry of such judgment, it being hereby agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;

(iv) determination of the application of income in the hands of any receiver or mortgagee in possession; and

(v) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 15-1506 and Section 15-1511 of the Act.

All moneys paid for Protective Advances or any of the other purposes herein authorized and all reasonable out-of-pocket expenses paid or incurred in connection therewith, including reasonable out-of-pocket attorneys' fees actually incurred, and any other moneys advanced by Mortgagee to protect the Property and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at the Default Rate commencing upon notice from Mortgagee to Mortgagor that such expenses have been incurred. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor.

(c) Should the proceeds of the Notes or any part thereof, or any amount paid out or advanced hereunder by Mortgagee, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any senior mortgage (as described in Subsection (i) of Section 15-1505 of the Act) or any other lien or encumbrance upon the Mortgaged Property or any part thereof on a parity with or prior or superior to the lien hereof ("Prior Encumbrance"), then as additional security hereunder the Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, however remote, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

(d) If an Event of Default has occurred hereunder, or when the outstanding indebtedness hereby secured, or any part thereof, shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such indebtedness or part thereof and pursue all remedies afforded to a mortgagee under and pursuant to the Act.

(e) The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the provisions of Subsection (c) of Section 15-1512 of the Act. The judgment of foreclosure or order confirming the sale shall provide (after application pursuant to Subsections (a) and (b) of said Section 15-1512) for application of sale proceeds in the following order of priority: first, all items not covered by the provisions of said Subsections (a) and (b), which under the terms hereof constitute

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secured indebtedness additional to that evidenced by the Notes, with interest thereon as herein provided; and second, all principal and interest remaining unpaid on the Notes.

(f) Upon, or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall appoint a receiver of the Property whenever Mortgagee, when entitled to possession, so requests pursuant to Section 15-1702(a) of the Act or when such appointment is otherwise authorized by operation of law. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to make leases to be binding upon all parties; including the Mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Property after entry of a judgment of foreclosure, all as provided in Subsection (g) of Section 15-1701 of the Act. In addition, such receiver shall also have the following powers: (a) to extend or modify any then existing Leases, which extensions and modifications may provide for terms to expire, or for options to Lessees to extend or renew terms to expire, beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, discharge of the mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (b) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of the period of receivership. The court from time to time, either before or after entry of judgment of foreclosure, may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (a) the indebtedness secured hereby, or by or included in any judgment of foreclosure or supplemental judgment or other item for which Mortgagee is authorized to make a Protective Advance; and (b) the deficiency in case of a sale and deficiency.

(g) In any case in which under the provisions of this Mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after judgment thereunder, and at all times until confirmation of sale, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take and upon Mortgagee's request to the court to be placed in actual possession of, Mortgagee shall be placed in possession of the Property or any part thereof, personally, or by its agent or attorneys as provided in Subsections (b)(2) and (c) of Section 1701 of the Act. In such event Mortgagee in its reasonable discretion may enter upon and take and maintain or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of said Property, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Property relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may, as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the

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Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its reasonable discretion or in the reasonable discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Property, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagee to cancel the same; (b) to elect to disaffirm any Lease or sublease which is then subordinate to the lien hereof; (c) to extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to Lessees to extend or renew terms to expire beyond the maturity date of the indebtedness hereunder and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases and the options or other such provisions to be contained therein, shall be binding upon Mortgagee and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Mortgage indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Property; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Property as to it may deem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof, and (g) to receive all of such avails, rents, issues and profits; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter. Without limiting the generality of the foregoing provisions of this Section, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act.

(h) Mortgagee acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. Mortgagee hereby waives any and all rights of redemption from sale under any judgment of foreclosure of this Mortgage on behalf of Mortgagee and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of right of redemption is made pursuant to the provisions of Section 15-1601(b) of the Act.

(i) At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage secures (in addition to the principal secured hereby) the payment of any and all Loan commissions, service charges, liquidated damages, reasonable out-of-pocket expenses and advances due to or incurred by Mortgagee in connection with the Loan; provided, however, that in no event shall the total amount secured hereby exceed two hundred percent (200%) of the face amount of the Note.

(j) At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any Condemnation Proceeds), to any and all Leases of all or any



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part of the Property upon the execution by Mortgagee and recording thereof, at any time hereafter in the appropriate official records of the County wherein the Property are situated, of a unilateral declaration to that effect.

(k) Notwithstanding anything to the contrary herein contained, the aggregate amount of the Secured Obligations secured hereby shall not exceed \$290,000,000.

7.19 Third Party Beneficiary. Each person comprising Lender, as defined in the Loan Agreement, is a third party beneficiary of the obligations of Mortgagor, and of the rights and benefits accruing to Mortgagee hereunder.

7.20 Exculpation. Notwithstanding anything to the contrary contained in this Mortgage, the liability of Mortgagor to pay the Secured Obligations and for the performance of the other agreements, covenants and obligations contained here and in the Note, the Loan Agreement and the Loan Documents shall be limited as set forth in Article 26 of the Loan Agreement. The provisions of Article 26 of the Loan Agreement are incorporated by reference to the fullest extent as if the text of such Article were set forth in its entirety herein. In the event of any conflict or inconsistency between the provisions of Article 26 of the Loan Agreement, as incorporated herein by this Section 7.20, on the one hand, and any other provision of this Mortgage, on the other, the provisions of Article 26 of the Loan Agreement shall govern and control.

7.21 Conflicts of Terms. In case of any conflict between the terms of this Mortgage and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

[NO FURTHER TEXT ON THIS PAGE]

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first above written.

**MORTGAGOR:**

200 WEST MADISON, L.L.C., a Delaware limited liability company

By: 

Name: David Augarten

Title: Authorized Person  
Vice President

Property of Cook County Clerk's Office



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## EXHIBIT A

### Legal Description

THE EAST 1/2 OF LOT 6 AND ALL OF LOTS 7 AND 8 (ALL TAKEN AS A TRACT) EXCEPTING FROM SAID TRACT THAT PART TAKEN FOR WIDENING OF MADISON STREET IN BLOCK 54 IN ORIGINAL TOWN OF CHICAGO IN SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N : 17-09-456-003-0000 and 17-09-456-019-0000

Address: 200 W Madison Street, Chicago, Illinois 60606-3414

Property of Cook County Clerk's Office