



Doc#: 1009141086 Fee: \$104.00
Eugene "Gene" Moore RHSP Fee:\$10.00
Cook County Recorder of Deeds
Date: 04/01/2010 03:01 PM Pg: 1 of 35

This Instrument Was Prepared By
and When Recorded, Return to:

Morrison & Foerster LLP
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New York, New York 10104
Attention: Chris Delson
Ref: 60836-17
PIN: 08-16-200-103

RETURN TO:
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**(I) FIRST AMENDMENT TO MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING
AND**

(II) FIRST AMENDMENT TO ASSIGNMENTS OF LEASES AND RENTS

This (i) First Amendment to Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing and (ii) First Amendment to Assignments of Leases and Rents (this "Amendment") is made as of the 19th day of March, 2010 by SB ARLINGTON FUNDING COMPANY, INC., a Delaware corporation, having an office c/o Global Securitization Services, LLC, 68 South Service Road, Suite 120, Melville, New York 11747 (the "Borrower"), and ING REAL ESTATE FINANCE (USA) LLC, a Delaware limited liability company, having an office at 230 Park Avenue, New York, New York 10169, as administrative agent for and on behalf of the Lenders (as defined below) (in such capacity, together with its successors in such capacity, "Administrative Agent").

RECITAL

WHEREAS, the Borrower, the other borrowers party thereto (such parties, including the Borrower being collectively referred to herein as the "Borrowers"), Administrative Agent and the lenders party thereto (collectively, the "Existing Lenders") are parties to that certain First

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Handwritten marks: 2, 7487691, 03/19/10, 2/4/12

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Amended and Restated Loan Agreement dated as of June 28, 2005 (as heretofore amended, the "Existing Loan Agreement"), pursuant to which, *inter alia*, the Existing Lenders made a loan (the "Existing Loan") to the Borrowers in the amount of \$424,482,000, which Existing Loan is evidenced by that certain First Amended and Restated Promissory Note dated as of June 28, 2005 (as heretofore amended, the "Existing Note");

WHEREAS, in connection with the execution and delivery of the Existing Loan Agreement, the Borrower executed and delivered to Administrative Agent (i) that certain mortgage as described in Schedule A-1 attached hereto (the "Existing Instrument"); (ii) that certain assignment of leases and rents described in Schedule A-2 attached hereto (the "Existing ALR (Project Company Lease)"); (iii) that certain assignment of leases and rents described in Schedule A-3 attached hereto (the "Existing ALR (End User Lease)"); and (iv) that certain assignment of leases and rents described in Schedule A-4 attached hereto (the "Existing ALR (General Leases)"); and together with the Existing ALR (Project Company Lease) and the Existing ALR (End User Lease), the "Existing ALRs"), in each case with respect to certain property more particularly described in Exhibit A attached hereto;

WHEREAS, concurrently with the execution and delivery of this Amendment, the Borrowers, the lenders party thereto (the "Lenders") and Administrative Agent are entering into a Second Amended and Restated Loan Agreement dated as of the date hereof (the "Second Amended and Restated Loan Agreement") pursuant to which the Existing Loan Agreement is being amended and restated (the Existing Loan Agreement as so amended and restated and as further amended, restated, modified or supplemented and in effect from time to time being hereinafter called the "Loan Agreement"), to provide, *inter alia*, for a reduction in the amount of the Existing Loan to \$324,349,151 (the "Loan"), which Loan will be evidenced by various Notes dated as of the date hereof executed and delivered by the Borrowers payable to the order of each Lender according to its respective Pro Rata Share of the Loan (as each such Note may be consolidated, severed, split, modified, amended, restated or extended from time to time, collectively, the "Note"); and

WHEREAS, as a condition to entering into the Second Amended and Restated Loan Agreement, the Lenders have required that the Existing Instrument and the Existing ALRs be amended pursuant to the terms and provisions of this Amendment to provide, among other things, that the Existing Instrument and the Existing ALRs shall secure the Existing Loan Agreement, as amended and restated by the Second Amended and Restated Loan Agreement.

NOW, THEREFORE, to induce the Lenders to amend and restate the Existing Loan Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and Administrative Agent have agreed that the Existing Instrument and the Existing ALRs shall be hereby modified as follows:

1. Definitions. Each capitalized term used herein and not otherwise defined herein shall have the meaning assigned thereto in the Existing Instrument or the Existing ALRs, as applicable.

(a) Existing Instrument. In addition, certain terms defined in the Existing Instrument shall have the following meanings:

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- (i) any reference in the Existing Instrument to the term "Instrument" shall mean the Existing Instrument as amended by this Amendment and as the same may be further amended, restated, modified or supplemented and in effect from time to time;
- (ii) any reference in the Existing Instrument to the term "Loan Agreement" shall mean the Loan Agreement as defined herein;
- (iii) any reference in the Existing Instrument to the term "Note" shall mean the Note as defined herein;
- (iv) any reference in the Existing Instrument to the term "Loan" shall mean the Loan as defined herein;
- (v) any reference in the Existing Instrument to the scheduled maturity date shall mean, if the Loan is not sooner paid or extended pursuant to the terms of the Loan Agreement, December 31, 2012; and
- (vi) any reference in the Existing Instrument to the term "Lender" shall mean Administrative Agent except as follows (Administrative Agent and the Lenders used in this subsection 1(a)(vi) shall mean Administrative Agent and the Lenders as defined herein):
- (1) second paragraph, (A) 2nd line, the term "Lender" shall mean the Lenders and (B) 21st line, "Lender" shall mean Administrative Agent (on behalf of the Lenders);
 - (2) "TO HAVE AND TO HOLD" paragraph, page 4, 2nd line, the term "Lender" shall mean Administrative Agent (on behalf of the Lenders);
 - (3) "THIS INSTRUMENT" paragraph, page 5, the term "Lender" shall mean Administrative Agent and the Lenders;
 - (4) "PROVIDED, HOWEVER" paragraph, page 5, the term "Lender" shall mean Administrative Agent (on behalf of the Lenders);
 - (5) Section 10, (A) subsection (a), 7th line, the term "Lender" shall mean Administrative Agent and the Lenders and (B) subsection (b), the term "Lender" shall mean Administrative Agent and the Lenders and the term "its" shall mean "their respective";
 - (6) Section 16(a), 1st and 6th lines, the term "Lender" shall mean Administrative Agent or any Lender;
 - (7) Section 16(d), 6th and 8th lines, the term "Lender" shall mean Administrative Agent or any Lender;
 - (8) Section 16(f), (A) 1st and 3rd lines, the term "Lender" shall mean Administrative Agent or any Lender, (B) 4th line, the term "Lender" shall mean

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the Lenders and (C) 6th line, the term “Lender” shall mean Administrative Agent and the Lenders

(9) Section 16(g), 1st and 9th lines, the term “Lender” shall mean Administrative Agent or any Lender;

(10) Section 16(i), (A) 9th line, the term “Lender” shall mean Administrative Agent and the Lenders and (B) 14th, 17th and 19th lines, the term “Lender” shall mean Administrative Agent or any Lender;

(11) Section 17, 5th line, the term “Lender” shall mean Administrative Agent (on behalf of the Lenders);

(12) Section 19(a), 4th line, the term “Lender” shall mean Administrative Agent or any Lenders;

(13) Section 21, 5th line, the term “Lender” shall mean Administrative Agent or any Lenders;

(14) Section 34, the term “Lender” shall mean Administrative Agent and any successors or assigns in such capacity;

(15) Section 41, (A) 2nd and 3rd lines, the term “Lender” shall mean Administrative Agent and the Lenders and (B) 5th line, the term “Lender” shall mean Administrative Agent or any Lender and the term “its” shall mean “their respective”;

(16) Section 42, (A) 1st line, the term “Lender” shall mean the Lenders, (B) 2nd line, the term “Lender” shall mean Administrative Agent and the Lenders and the term “has” shall mean “have” and (C) 6th line, the term “Lender” shall mean Administrative Agent or any Lender;

(17) Section 45(b), 4th line, the term “Lender” shall mean Administrative Agent or any Lender;

(18) Section 46, the term “Lender” shall mean Administrative Agent and the Lenders;

(19) Section 55, 1st paragraph (A) 1st line, the term “Lender” shall mean the Lenders and the term “has” shall mean “have”, (B) 13th line, the term “Lender” shall mean Administrative Agent (on behalf of the Lenders) and (C) 18th line, the term “Lender” shall mean Administrative Agent and the Lenders; and

(20) Section 55, 2nd paragraph (A) 7th line, the term “Lender” shall mean Administrative Agent or the Lenders and (B) 9th line, the term “Lender” shall mean the Lenders.

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(b) Existing ALRs. In addition, certain terms defined in the Existing ALRs shall have the following meanings:

(i) any reference in the Existing ALRs to the term "Assignment" shall mean the Existing ALR (Project Company Lease), Existing ALR (End User Lease) or Existing ALR (General Leases), as applicable, as amended by this Amendment and as the same may be further amended, restated, modified or supplemented and in effect from time to time;

(ii) any reference in the Existing ALRs to the term "Loan Agreement" shall mean the Loan Agreement as defined herein;

(iii) any reference in the Existing ALRs to the term "Note" shall mean the Note as defined herein;

(iv) any reference in the Existing ALRs to the term "Mortgage" shall mean the Existing Instrument as amended by this Amendment; and

(v) any reference in the Existing ALRs to the term "Loan" shall mean the Loan as defined herein.

(c) Existing ALR (Project Company Lease). In addition, any reference in the Existing ALR (Project Company Lease) to the term "Lender" shall mean Administrative Agent except as follows (Administrative Agent and the Lenders used in this subsection 1(c) shall mean Administrative Agent and the Lenders as defined herein):

(i) 1st paragraph, 1st sentence, the term "Lenders" shall mean the Lenders;

(ii) 2nd paragraph, 3rd line, the term "Lender" shall mean Administrative Agent (on behalf of the Lenders);

(iii) 3rd paragraph, 3rd line, the term "Lender" shall mean the Lenders;

(iv) Section 1, 2nd line, the term "Lender" shall mean Administrative Agent (on behalf of the Lenders);

(v) Section 3, 2nd line, the term "Lender" shall mean Lender;

(vi) Section 6, 2nd and 3rd lines, the term "Lender" shall mean Administrative Agent or any Lender;

(vii) Section 7, 2nd, 3rd and 4th lines, the term "Lender" shall mean Administrative Agent or any Lender;

(viii) Section 8, 3rd line, the term "Lender" shall mean Administrative Agent or any Lender;

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(ix) Section 9, 5th line, the term “Lender” shall mean Administrative Agent or its successors or assigns;

(x) Section 10, 1st, 4th, 7th, 12th, 13th and 14th lines, the term “Lender” shall mean Administrative Agent or any Lender;

(xi) Section 14, 4th line, the term “Lender” shall mean Administrative Agent and the Lenders;

(xii) Section 16, the term “Lender” shall mean Administrative Agent and the Lenders;

(xiii) Section 17, (A) 1st, 8th and 13th lines, the term “Lender” shall mean Administrative Agent and the Lenders and (B) 20th line, the term “Lender” shall mean Administrative Agent or the Lenders; and

(xiv) Last paragraph, the term “Lender” shall mean Administrative Agent and its successors and assigns and the Lenders and the term “holder” shall mean holders.

(d) Existing ALR (End User Lease). In addition, any reference in the Existing ALR (End User Lease) to the term “Lender” shall mean Administrative Agent except as follows (Administrative Agent and the Lenders used in this subsection 1(d) shall mean Administrative Agent and the Lenders as defined herein):

(i) 1st paragraph, first sentence, the term “Lender” shall mean the Lenders;
and

(ii) the paragraph beginning with the term “Assignor”, page 2, the term “Lender” shall mean Administrative Agent (on behalf of the Lenders).

(e) Existing ALR (General Leases). In addition, any reference in the Existing ALR (General Leases) to the term “Lender” shall mean Administrative Agent except as follows (Administrative Agent and the Lenders used in this subsection 1(e) shall mean Administrative Agent and the Lenders as defined herein):

(i) 1st paragraph, first sentence, the term “Lender” shall mean the Lenders;

(ii) 2nd paragraph, 3rd line, the term “Lender” shall mean Administrative Agent (on behalf of the Lenders);

(iii) Section 1, 2nd line, the term “Lender” shall mean Administrative Agent (on behalf of the Lenders);

(iv) Section 3, 2nd line, the term “Lender” shall mean Lender;

(v) Section 6, 2nd and 3rd lines, “Lender” shall mean Administrative Agent or any Lender;

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(vi) Section 7, (A) 2nd, 3rd, 4th and 6th lines, the term "Lender" shall mean Administrative Agent or any Lender and (B) 5th line, the term "Lender" shall mean the Lenders;

(vii) Section 8, 3rd line, the term "Lender" shall mean Administrative Agent or any Lender;

(viii) Section 9, 5th line, the term "Lender" shall mean Administrative Agent or its successors or assigns;

(ix) Section 10, 1st, 4th, 7th, 12th, 13th and 14th lines, the term "Lender" shall mean Administrative Agent or any Lender;

(x) Section 14, 4th line, the term "Lender" shall mean Administrative Agent and the Lenders;

(xi) Section 16, the term "Lender" shall mean Administrative Agent and the Lenders;

(xii) Section 17, (A) 1st, 8th and 13th lines, the term "Lender" shall mean Administrative Agent and the Lenders and (B) 20th line, the term "Lender" shall mean Administrative Agent or the Lenders; and

(xiii) Last paragraph, the term "Lender" shall mean Administrative Agent and its successors and assigns and the Lenders and the term "holder" shall mean holders.

2. Amendment.

(a) Existing Instrument. The Existing Instrument is hereby amended as follows:

(i) Second paragraph, after the phrase "(collectively, the "Obligations)", (A) "," is hereby deleted and replaced with "." and (B) the text following the new "." through and including clause (m) of the granting clause is hereby deleted and the following substituted therefor:

"FOR GOOD AND VALUABLE CONSIDERATION, Borrower has mortgaged, warranted, given, granted a security interest in, bargained, sold, conveyed, confirmed, pledged and assigned, and does hereby mortgage, warrant, give, grant a security interest in, bargain, sell, convey, confirm, pledge and assign unto Administrative Agent (on behalf of the Lenders), Borrower's present and future fee simple interest in and to the real property described in Exhibit A attached hereto (the "Premises") and the buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter located thereon (the "Improvements)":

TOGETHER WITH: all right, title, interest and estate of Borrower now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises and the Improvements, together with the following property, rights, interests

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and estates being hereinafter described, are collectively referred to herein as the "Property"):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Premises, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Property, and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures) and other property of every kind and nature, whether tangible or intangible, whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Premises and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements, and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Premises or the Improvements, or appurtenant thereto, and usable in connection with the present or future operation, enjoyment and occupancy of the Premises and the Improvements (hereinafter collectively called the "Equipment"), including the proceeds of any sale or transfer of the foregoing, and the right, title and interest of Borrower in and to any of the Equipment which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "Uniform Commercial Code") superior in lien to the lien of this Instrument;

(c) all leases, tenancies, licenses, subleases, assignments and/or other rental or occupancy agreements (including, without limitation, any and all guarantees and supporting obligations of and security deposit and letter of credit rights relating to any of the foregoing) heretofore or hereafter entered into including, without limitation, the Related Project Company Lease, affecting the use, enjoyment or occupancy of the Premises and the Improvements, including any extensions, renewals, modifications or amendments thereof (whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") (collectively, the "Leases"), together with all rights, powers, privileges, options and other benefits of lessor under the Leases, including, without limitation, the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, insurance proceeds, moneys and security payable or receivable under the Leases or pursuant to any of the provisions thereof, whether as rent or otherwise, the right of the lessor to perform all other necessary or appropriate acts with respect to such Leases as agent and attorney in fact for Borrower,

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and the right to make all waivers and agreements, to give and receive notices, consents and releases, to take such action upon the happening of an event of default under any Lease, including the commencement, conduct and consummation of proceedings at law or in equity as shall be permitted under any provision of any Lease or by any law, and to do any and all other things whatsoever which Borrower is or may become entitled to do under any such Lease together with all accounts receivable, contract rights, franchises, interests, estates or other claims, both at law or in equity, relating to the Property, to the extent not included in rent earnings and income under any of the Leases, including the right to receive and collect any sums payable to Borrower thereunder and all deposits or other security or advance payments made by Borrower with respect to any of the services related to the Property or the operation thereof, and together with all rents, rent equivalents (including room revenues, if applicable), moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature and from any and all sources arising from or attributable to the Premises and the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (the "Rents"), and together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt:

(d) all of Borrower's right, title and interest in, to and under any and all reserve, deposit or escrow accounts (the "Accounts"), made pursuant to any of the Loan Documents, together with all income, profits, benefits, investment property and advantages arising therefrom, and together with all rights, powers, privileges, options and other benefits of Borrower under the Accounts, and together with the right to do any and all other things whatsoever which Borrower is or may become entitled to do under the Accounts;

(e) all trade names, software, trademarks, trademark applications, trademark licenses, servicemarks, logos, copyrights, copyright applications, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(f) any and all awards, payments or insurance proceeds, including interest thereon, and the right to receive the same, which may be paid or payable with respect to the Property as a result of: (1) the exercise of the right of eminent domain or action in lieu thereof; or (2) the alteration of the grade of any street; or (3) any fire, casualty, accident, damage or other injury to or decrease in the value of the Property, to the extent of all amounts which may be secured by this Instrument at the date of receipt of any such award or payment by Borrower, or Administrative Agent or any Lender, and of the reasonable counsel fees, costs and disbursements incurred by Borrower, Administrative Agent or any Lender in connection with the collection of such award or payment;

(g) the right, in accordance with the terms and conditions hereof, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought

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with respect to the Property and to commence any action or proceeding to protect the interest of the Administrative Agent (on behalf of the Lenders) in the Property or any part thereof, other than any action or proceeding between Borrower and Administrative Agent or any Lender as adverse parties;

(h) all accounts, sub-accounts, escrows, reserves, documents, instruments, chattel paper, monetary obligations, claims, deposits, investment property and general intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and all books, records, plans, specifications, designs, drawings, permits, consents, licenses, franchises, management agreements, contracts, contract rights (including, without limitation, any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair, or other work upon the Property), approvals, actions, refunds or real estate taxes and assessments (and any other governmental impositions related to the Property), and causes of action that now or hereafter relate to, are derived from or are used in connection with the Property, or the use, operation, management, improvement, alteration, repair, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon;

(i) all accounts receivable, contract rights, interests, estate or other claims, both in law and in equity, which Borrower now has or may hereafter acquire in the Property or any part thereof including, without limitation, all of Borrower's right, title and interest in and to the Related Project Company Lease, the Basic Rent Note (as defined in the Related Project Company Lease), the Understanding to Sell (as defined in the Related Project Company Lease) and the Understanding to Purchase (as defined in the Related Project Company Lease);

(j) certain rights which Borrower now has or may hereafter acquire, to be indemnified and/or held harmless from any liability, loss, damage, cost or expense (including, without limitation, attorneys' fees and disbursements) relating to the Property or any part thereof;

(k) all personal property of Borrower and all other Collateral;

(l) all interest rate swaps, caps, collars or other hedging transactions which are entered into by the Borrower (including, without limitation, the Hedge) and all payments and proceeds derived by Borrower therefrom;

(m) all rights of Borrower under any covenants, conditions, and restrictions affecting the Premises, the Improvements, or any master planned community of which the Premises and the Improvements are a part, whether now existing or hereafter arising, including, without limitation, all voting rights, declarant's rights, developer rights, and similar rights arising under any such covenants, conditions, and restrictions (collectively, the "CC&R's"), provided, Borrower shall retain the right to exercise its privileges under the CC&R's (subject in all respects to the terms of the Loan Agreement) until the occurrence and during the continuance of an Event of Default; and

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(n) any and all proceeds, substitutions, accessories and products of any of the foregoing.”

(ii) The “PROVIDED, HOWEVER” paragraph, page 5, is hereby modified to delete the amount “\$424,482,000” and substitute the following therefor: \$324,349,151;

(iii) A following new Section 4A is added after Section 4:

“4A. Actions Affecting Property. Borrower shall appear and cause its Related Project Company to appear in and contest any action or proceeding purporting to affect the security hereof or the rights or powers of Administrative Agent or any Lender; and shall pay all reasonable costs and expenses (including, without limitation, costs of evidence of title, litigation, and reasonable attorneys’ fees) in any such action or proceeding in which Administrative Agent or any Lender may appear.”

(iv) Subsection 9(c) is hereby deleted and the following substituted therefor:

“(a) Except as expressly permitted under Article XI of the Loan Agreement, Borrower shall not cause or suffer to occur or exist, any Transfer, without the prior written consent of Administrative Agent and if applicable, the Majority Lenders, which consent may be withheld in Administrative Agent’s and if applicable, each Majority Lender’s sole and absolute discretion.”

(v) Section 10 is hereby amended as follows:

(1) Third line of subsection (a), the following phrase is added after the phrase “charge on the same,”: “or which imposes a tax, either directly or indirectly, on the Obligations or Administrative Agent’s or any Lender’s interest in the Premises”; and

(2) The following new subsection (c) is added:

“(c) If Administrative Agent or any Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Administrative Agent or any such Lender (unless such tax is paid or otherwise covered by the Borrower) or unenforceable or provide the basis for a defense of usury then Administrative Agent may, at its option declare the Debt immediately due and payable or require Borrower to pay or reimburse Administrative Agent for payment of the lawful or non-usurious portion thereof, if any.”

(vi) Subsection 16(b) is hereby deleted in its entirety and the following substituted therefor:

“(b) Right of Entry. Administrative Agent may, by lawful means, prior or subsequent to the institution of any foreclosure proceedings, enter upon the Property, either personally or by its agents, nominees or attorneys and dispossess

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Borrower, its Related Project Company, and their respective agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, or any part thereof, and take exclusive possession of the Property and of all books, records, and accounts relating thereto and Borrower agrees to surrender and cause its Related Project Company to surrender possession of the Premises and of such books, records and accounts to Administrative Agent upon demand, and thereupon Administrative Agent may exercise without interference from Borrower or its Related Project Company any and all rights which Borrower or its Related Project Company has with respect to the management, possession, operation, protection, or preservation of the Property, including, without limitation, (i) the right to rent the same for the account of Borrower and to deduct from such Rents all costs, expenses (including reasonable attorneys' fees), and liabilities of every character incurred by Administrative Agent in collecting such Rents and in managing, operating, maintaining, protecting, or preserving the Property and to apply the remainder of such Rents on the Debt in such manner and priority as Administrative Agent may elect, (ii) the right to use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Premises and conduct the business thereat; (iii) the right to complete any construction on the Premises in such manner and form as Administrative Agent deems advisable; (iv) the right to make alterations, additions, renewals, replacements and improvements to or on the Premises; (v) the right to exercise all rights and powers of Borrower with respect to the Premises, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Premises and every part thereof; (vi) if Borrower is in physical possession and occupation of the Property, require Borrower to pay monthly in advance to Administrative Agent, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Premises as may be occupied by Borrower; and (vii) require Borrower to vacate and surrender possession of the Premises and cause its Related Project Company to vacate and surrender possession of the Premises to Administrative Agent or to such receiver and, in default thereof, Borrower and its Related Project Company may be evicted by summary proceedings or otherwise. All such costs, expenses, and liabilities incurred by Administrative Agent in collecting such Rents and in managing, operating, maintaining, protecting, or preserving the Property, if not paid out of Rents as hereinabove provided, shall constitute a demand obligation owing by Borrower and shall bear interest from the date of expenditure until paid at the Default Rate as specified in, and in accordance with, the Loan Agreement, all of which shall constitute a portion of the Debt. If Administrative Agent elects to enter the Property as provided for herein, Administrative Agent may invoke any and all legal remedies to dispossess Borrower, including, without limitation, specifically one or more actions for forcible entry and detainer, trespass to try title, and restitution. In connection with any action taken by Administrative Agent pursuant to this subsection, Administrative Agent shall not be liable for any loss sustained by Borrower resulting from any failure to let the Property, or any

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part thereof, or from any other act or omission of Administrative Agent in managing, operating, caring for, or repairing the Property or any portion thereof unless such loss is caused solely by the fraud, willful misconduct or gross negligence of Administrative Agent, its agents, employees, or officers, nor shall Administrative Agent be obligated to perform or discharge any obligation, duty, or liability under any Lease or under or by reason hereof or the exercise of rights or remedies hereunder unless Administrative Agent has actually entered or took possession of the Property, foreclosed on the Property, or accepted a deed in lieu of foreclosure. Nothing in this subsection shall impose any duty, obligation, or responsibility upon any Indemnitee for the control, care, management, leasing, or repair of the Property or any portion thereof, nor for the carrying out of any of the terms and conditions of any such Lease prior to actual entry and possession of the Property by Administrative Agent a result of the transfer of title to the Property to any Indemnitee by foreclosure, deed-in-lieu thereof, exercise of power of sale. Borrower hereby assents to, ratifies, and confirms any and all actions of Administrative Agent with respect to the Property taken under this subsection. Without limiting Section 23 hereof, Borrower hereby agrees to indemnify and hold harmless Administrative Agent and the Lenders for, from and against any and all losses, liabilities, obligations, claims, demands, damages, penalties, judgments, costs, and expenses, including reasonable legal fees and expenses, howsoever and by whomsoever asserted, arising out of or in any way connected with Administrative Agent's or any Lender's exercise of rights and remedies hereunder; and all such losses, liabilities, obligations, claims, demands, damages, penalties, judgments, costs and expenses shall be deemed added to the indebtedness secured hereby and shall be secured by any and all other instruments securing said indebtedness, except for any of the foregoing solely resulting from Administrative Agent's or any Lender's, or Administrative Agent's or any Lender's agents, employees, or officers, gross negligence, bad faith or willful misconduct."

(vii) Section 41 is hereby modified to (i) add the phrase "Account" after the phrases "Impositions Reserve" and "Insurance Reserve" and (ii) delete the phrase "or any other Reserves" and substitute the following therefor: "or any other Reserve Account";

(viii) Section 45(a) is hereby modified to delete the first sentence and substitute the following therefor: "(a) Borrower acknowledges and confirms that it has executed and delivered to Administrative Agent (i) the Assignment of Leases and Rents: Project Company Lease (as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, the "ALR (Project Company Lease)"), (ii) the Assignment of Assignment of Leases and Rents: End User Lease (as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, the "ALR (End User Lease)") and (iii) the Assignment of Leases and Rent: General Leases (as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, the "ALR (General Leases)"; and collectively with the ALR (Project Company Lease) and the ALR (End User Lease), the "Assignment of Leases"), intending that such instruments create a present and absolute assignment to Administrative Agent (on behalf of the Lenders) of the Leases and Rents subject to the license granted therein,

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which license is revocable upon the occurrence and during the continuation of an Event of Default.”

(ix) Section 49 is hereby deleted in its entirety and replaced with the phrase “Intentionally Omitted”;

(x) Section 51 is hereby modified by deleting the phrase “Article 12” and substituting the following therefor: “Article XII”;

(xi) Section 55 is hereby modified as follows:

(1) In the second line of the second paragraph, the phrase “including the Property,” is added after the phrase “the assets of the Borrower”; and

(2) In the third paragraph, the first sentence is hereby deleted and the following substituted therefor: “At Administrative Agent’s option, Administrative Agent may cause or agree to the release of any one or more of the Related Properties as collateral for the Loan and, in such event, the Loan shall no longer be cross-collateralized and cross-defaulted with such Related Property so released and, upon such release, this Instrument shall no longer secure such Related Property.”;

(xii) Section 56 is hereby modified by (i) deleting the phrase “Sections 11.3 or 11.4” and substituting the phrase “Section 11.3” therefor and (ii) deleting the phrase “or an Approved Substitution (as such terms are defined in the Loan Agreement)” and substituting the phrase “(as such term is defined in the Loan Agreement)” therefor;

(xiii) The following new Sections are added after Section 57:

(1) “58. First Lien Status. Borrower shall preserve and protect the first lien and security interest status of this Instrument and the other Loan Documents. If any lien or security interest other than the Permitted Encumbrances is asserted against any Property, Borrower shall promptly and in no event longer than ten (10) Business Days, and at its expense, (a) give Administrative Agent a detailed written notice of such lien or security interest (including origin, amount and other terms), and (b) pay the underlying claim in full or take such other action so as to cause it to be released or contest the same in compliance with the requirements of the Loan Agreement (including the requirement of providing a bond or other security satisfactory to Administrative Agent).

(2) 59. Fixture Filing. This Instrument shall also constitute a “fixture filing” for the purposes of the Uniform Commercial Code against all of the Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of Debtor (Borrower) and Secured Party (Administrative Agent) as set forth in the first paragraph of this Instrument.

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(3) 60. No Mortgagee in Possession. Neither the enforcement of any of the remedies under Section 16, the assignment of the Leases and Rents under Section 45, the security interests under Section 17, nor any other remedies afforded to Administrative Agent and/or the Lenders under the Loan Documents, at law or in equity shall cause Administrative Agent or any Lenders to be deemed or construed to be a mortgagee in possession of the Property, unless and until Administrative Agent or any Lender takes actual possession of the Property, to obligate Administrative Agent or any Lenders to lease any Property or attempt to do so, or to take any action, incur any expense, or perform or discharge any obligation, duty or liability whatsoever under any of the Leases or otherwise.

(4) 61. Attorney-in-Fact. Borrower hereby irrevocably appoints Administrative Agent (on behalf of the Lenders) and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, (a) to execute and/or record any notices of completion, cessation of labor, or any other notices that Administrative Agent deems appropriate to prevent a material deterioration in Administrative Agent's interest, if Borrower shall fail to do so within five (5) Business Days after written request by Administrative Agent, (b) upon the issuance of a deed pursuant to the foreclosure of this Instrument or the delivery of a deed in lieu of foreclosure, to execute all instruments of assignment, conveyance or further assurance with respect to the Leases, Rents, Equipment, personalty, fixtures, plans and property agreements in favor of the grantee of any such deed and as may be necessary or desirable for such purpose, (c) to prepare, execute and file or record financing statements, continuation statements, applications for registration and like papers necessary to create, perfect or preserve Administrative Agent's security interests and rights in or to any of the collateral, and (d) while any Event of Default exists, to perform any obligation of Borrower hereunder; however: (1) Administrative Agent shall not under any circumstances be obligated to perform any obligation of Borrower; (2) any amounts reasonably advanced or expended by Administrative Agent in such performance or attempted performance shall be, at the request of Administrative Agent, promptly paid to Administrative Agent, together with any interest thereon at the Default Rate, from the date of such expenditure until paid; (3) any such amounts advanced or expended by Administrative Agent in such performance or attempted performance shall be added to and included within the indebtedness evidenced by the Note and shall be secured by all of the Collateral securing the Loan, including the Property; (4) Administrative Agent as such attorney-in-fact shall only be accountable for such funds as are actually received by Administrative Agent; and (5) neither Administrative Agent nor any Lenders shall be liable to Borrower or any other person or entity for any failure to take any action which it is empowered to take under this Section."; and

(xiv) Exhibit A is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

(b) Existing ALR (Project Company Lease). The Existing ALR (Project Company Lease) is hereby amended as follows:

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(i) The second and third paragraphs are deleted in their entirety and the following substituted therefor:

“Assignor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, SELL, CONVEY, ASSIGN, TRANSFER, SET OVER AND DELIVER to Administrative Agent (on behalf of the Lenders) the entire lessor’s interest in and to that certain Third Amended and Restated Finance Lease (*Ijara*) and Purchase Option Agreement, dated as of the date hereof between the Assignor, as the lessor, and SB Arlington Project Corporation, a Delaware corporation (the “Project Company”), as the lessee (as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, the “Finance Lease”) the Understanding to Purchase (as defined in the Finance Lease), the Understanding to Sell (as defined in the Finance Lease), the Basic Rent Note (as defined in the Finance Lease) executed in connection with the Premises which Premises includes that certain lot or piece of land, more particularly described in Exhibit A attached hereto and made a part hereof, together with any extensions or renewals of the same (Finance Lease, the Understanding to Purchase, the Understanding to Sell and the Basic Rent Note, as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, are hereinafter collectively referred to as the “Leases”);

TOGETHER WITH all rents, income, issues, revenues and profits arising from the Leases, whether paid or accruing before or after the filing by or against Assignor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the “Bankruptcy Code”), and renewals thereof and together with all rents, income, issues, revenues and profits from the use, enjoyment and occupancy of the Premises (including, but not limited to with respect to the Finance Lease, the Understanding to Purchase, the Understanding to Sell, the Basic Rent Note, the Basic Rent payable to Assignor in connection with the Basic Rent Note, the Supplemental Rent, the Default Price, the Loss and Termination Price and the Purchase Price payable thereunder), minimum rents, additional rents, percentage rents, deficiency rents, security deposits, local revenues and liquidated damages following default under the Leases, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Premises, all condemnation awards, all of Assignor’s rights to recover monetary amounts from the Project Company in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults or Events of Default, including rejection of any Lease, together with any sums of money that may now or at any time hereafter be or become due and payable to Assignor by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas and mining Leases covering the Premises or any part thereof, and all proceeds and other amounts paid or owing to Assignor under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Premises) (capitalized terms used in this paragraph and not otherwise

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defined in this Assignment or the Loan Agreement shall have the respective meanings set forth in the Finance Lease) (all of the rights described above hereinafter collectively referred to as the "Rents");

TOGETHER WITH all of Assignor's claims and rights (the "Bankruptcy Claims") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code;

TOGETHER WITH all proceeds from the sale or other disposition of the Leases, the Rents and the Bankruptcy Claims;

TOGETHER WITH all rights, powers, privileges, options and other benefits of Assignor as lessor under the Leases, including, without limitation, the immediate and continuing right to make claim for, receive, collect and receipt for all Rents payable or receivable under the Leases or pursuant thereto (and to apply the same to the payment of the Obligations and to do all other things which Assignor or any lessor is or may become entitled to do under the Leases);

TOGETHER WITH the right, at Lender's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents;

TOGETHER WITH Assignor's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 2 of this Assignment and any or all other actions designated by Assignee for the proper management and preservation of the Property, and

TOGETHER WITH any and all other rights of Assignor in and to the items set forth above, and all amendments, modifications, replacements, renewals and substitutions thereof.";

(ii) Paragraph A is deleted in its entirety and the following substituted therefor: "A. The payment of the indebtedness evidenced by various Notes dated as of March 19, 2010 made by Assignor and the other Borrowers to the order of each Lender according to its respective Pro Rata Share of the Loan in the aggregate principal sum of \$324,349,151 (as each such Note may be amended, restated, extended or otherwise modified from time to time, in accordance with the Loan Agreement, collectively, the "Note"), and the other Obligations, which Obligations are secured by, among other things, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of June 28, 2005 made by Assignor in favor of Administrative Agent (on behalf of the Lenders) (as heretofore amended, and as the same may be further amended, restated, modified or supplemented and in effect from time to time, the "Mortgage"), covering the Premises.";

(iii) Section 1, 2nd line, the phrase ", Bankruptcy Claims" is added after the word "Leases";

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(iv) Section 3, the phrase “Hazardous Substances (as defined in the Environmental Agreement, which is defined in the Note)” is hereby deleted and the following substituted therefor: “Hazardous Materials”;

(v) Section 4, the beginning phrase “Assignor hereby authorizes and directs the Project Company upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that an Event of Default exists hereunder” is hereby deleted and the following substituted therefor: “Assignor hereby authorizes and directs the Project Company upon receipt from Administrative Agent of written notice that an Event of Default exists under the Loan Documents”;

(vi) The following new Section 7A is hereby added:

“7A. Bankruptcy.

a. Upon or at any time after the occurrence and during the continuance of an Event of Default, Administrative Agent shall have the right to proceed in its own name or in the name of Assignor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

b. If there shall be filed by or against Assignor a petition under the Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Assignor shall give Administrative Agent not less than ten (10) days’ prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject the Lease. Administrative Agent shall have the right, but not the obligation, to serve upon Assignor within such ten (10) day period a notice stating that (i) Administrative Agent demands that Assignor assume and assign the Lease to Administrative Agent pursuant to Section 365 of the Bankruptcy Code and (ii) Administrative Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Administrative Agent serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Administrative Agent of the covenant provided for in clause (ii) of the preceding sentence.”;

(vii) Section 15 is deleted in its entirety and the following substituted therefor:

“15. Termination of Assignment. Upon payment in full of the Obligations without further act or deed, this Assignment shall become and be void and of no effect. Notwithstanding the foregoing, Administrative Agent agrees to execute and deliver such satisfaction, release or discharge (at Assignor’s sole cost

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and expense) as the Assignor may reasonably request upon payment in full of the Obligations.”; and

(viii) Exhibit A is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

(c) Existing ALR (End User Lease). The Existing ALR (End User Lease) is hereby amended as follows:

(i) The 3rd sentence of the first paragraph is hereby deleted and the following substituted therefor: “Pursuant to that certain Assignment of Leases and Rents: End User Lease, dated as of the date hereof, by and between Project Company and Assignor (as the same may be amended, restated, modified, extended or renewed, the “Underlying Assignment”), Project Company has collaterally assigned to Assignor its interest in all current and future leases, subleases and other agreements affecting the use, enjoyment, or occupancy of all or any part of the Mortgaged Property, including the End User Lease (but excluding the Finance Lease (as defined therein) and the other Project Documents (as defined in the Finance Lease)) (collectively, the “Leases”), and the rents and other amounts due and payable under the Leases, including the End User Lease (collectively, the “Rents”).”;

(ii) The 5th sentence of the first paragraph is hereby deleted in its entirety and the following substituted therefor: “All Rents shall be paid in accordance with the terms of this Assignment and that certain direction letter from Project Company to Tenant, dated as of the date hereof, as the same may amended, restated, modified, extended or renewed (with the consent of Administrative Agent) and other direction letters from Project Company to tenants at the Premises (with the consent of Administrative Agent).”;

(iii) Paragraph A is deleted in its entirety and the following substituted therefor: “A. The payment of the indebtedness evidenced by various Notes dated as of March 19, 2010 made by Assignor and the other Borrowers to the order of each Lender according to its respective Pro Rata Share of the Loan in the aggregate principal sum of \$324,349,151 (as each such Note may be amended, restated, extended or otherwise modified from time to time, in accordance with the Loan Agreement, collectively, the “Note”), and the other Obligations, which Obligations are secured by, among other things, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of June 28, 2005 made by Assignor in favor of Administrative Agent (on behalf of the Lenders) (as heretofore amended, and as the same may be further amended, restated, modified or supplemented and in effect from time to time, the “Mortgage”), covering the Premises and recorded in the official land records of Cook County, Illinois (the “Official Records”).”; and

(iv) Exhibit A is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

(d) Existing ALR (General Leases). The Existing ALR (General Leases) is hereby amended as follows:

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(i) The second and third paragraphs are hereby deleted in their entirety and the following substituted therefor:

“Assignor, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby GRANT, SELL, CONVEY, ASSIGN, TRANSFER, SET OVER AND DELIVER to Administrative Agent (on behalf of the Lenders) the entire lessor’s interest in and to any and all leases and other agreements affecting the use, enjoyment or occupancy of all or any part of the Premises (as defined in the Mortgage (defined below), which Premises includes that certain lot or piece of land, more particularly described in Exhibit A attached hereto and made a part hereof), now or hereafter made, whether made before or after the filing by or against Assignor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the “Bankruptcy Code”) together with any extensions or renewals of the same (such leases and agreements, together with all other present and future leases and present and future agreements and the Lease Guaranties (as hereinafter defined), as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, are hereinafter collectively referred to as the “Leases”). Notwithstanding the anything herein to the contrary, the term Leases, as used herein, specifically excludes that certain Third Amended and Restated Finance Lease (*Ijara*) and Purchase Option Agreement, dated as of the date hereof between the Assignor, as the lessor, and SB Arlington Project Corporation, a Delaware corporation, as the lessee (as the same may be amended, restated, extended, supplemented or otherwise modified from time to time, the “Finance Lease”), the Understanding to Purchase (as defined in the Finance Lease), the Understanding to Sell (as defined in the Finance Lease), the Managing Contractor Agreement (as defined in the Finance Lease), the Tax Matters Agreement as defined in the Finance Lease), and the other Project Documents (as defined in the Finance Lease);

TOGETHER WITH all rents, income, issues, revenues and profits arising from the Leases, whether paid or accruing before or after the filing by or against Assignor of any petition for relief under the Bankruptcy Code, and renewals thereof and together with all rents, income, issues, revenues and profits from the use, enjoyment and occupancy of the Premises (including, but not limited to the minimum rents, additional rents, percentage rents, deficiency rents, security deposits, room revenues and liquidated damages following default under the Leases, all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by damage to any part of the Premises, all condemnation awards, all of Assignor’s rights to recover monetary amounts from any Lessee (as hereinafter defined) in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults or Events of Default, including rejection of any Lease, together with any sums of money that may now or at any time hereafter be or become due and payable to Assignor by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas and mining Leases covering the Premises or any part thereof, and all proceeds and other amounts paid or owing to Assignor under or pursuant to any and all contracts and bonds relating to the construction, erection or renovation of the Premises) (all of the rights described above and all sums due under any Lease Guaranties hereinafter collectively referred to as the “Rents”);

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TOGETHER WITH all of Assignor's claims and rights (the "Bankruptcy Claims") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code;

TOGETHER WITH any and all lease guaranties, letters of credit and any other credit support (individually, a "Lease Guaranty", collectively, the "Lease Guaranties") given by any guarantor in connection with any of the Leases or leasing commissions (individually, a "Lease Guarantor", collectively, the "Lease Guarantors") to Assignor;

TOGETHER WITH all proceeds from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and the Bankruptcy Claims;

TOGETHER WITH all rights, powers, privileges, options and other benefits of Assignor as lessor under the Leases and beneficiary under the Lease Guaranties, including, without limitation, the immediate and continuing right to make claim for, receive, collect and receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Obligations and to do all other things which Assignor or any lessor is or may become entitled to do under the Leases or the Lease Guaranties);

TOGETHER WITH the right, at Administrative Agent's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents;

TOGETHER WITH Assignor's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 2 of this Assignment and any or all other actions designated by Assignee for the proper management and preservation of the Property; and

TOGETHER WITH any and all other rights of Assignor in and to the items set forth above, and all amendments, modifications, replacements, renewals and substitutions thereof.";

(ii) Paragraph A is deleted in its entirety and the following substituted therefor: "A. The payment of the indebtedness evidenced by various Notes dated as of March 19, 2010 made by Assignor and the other Borrowers to the order of each Lender according to its respective Pro Rata Share of the Loan in the aggregate principal sum of \$324,349,151 (as each such Note may be amended, restated, extended or otherwise modified from time to time, in accordance with the Loan Agreement, collectively, the "Note"), and the other Obligations, which Obligations are secured by, among other things, that certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of June 28, 2005 made by Assignor in favor of Administrative Agent (on behalf of the Lenders) (as heretofore amended, and as the same may be further amended, restated, modified or supplemented and in effect from time to time, the "Mortgage"), covering the Premises.";

(iii) Section 1, 2nd line is hereby modified by adding ", Lease Guaranties, Bankruptcy Claims" after "Leases" and before "and the Rents";

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(iv) Section 3, the phrase “Hazardous Substances (as defined in the Environmental Agreement, which is defined in the Note)” is hereby deleted and the following substituted therefor: “Hazardous Materials”;

(v) Section 4, the beginning phrase “Assignor hereby authorizes and directs the Project Company upon receipt from Lender of written notice to the effect that Lender is then the holder of the Note and that an Event of Default exists thereunder” is hereby deleted and the following substituted therefor: “Assignor hereby authorizes and directs the tenants named in the Leases or any future tenants or occupants of the Premises pursuant to the Leases including, without limitation, the Project Company (individually a “Lessee” and collectively, the “Lessees”; in addition, Lessee or Lessees as used in this Section shall also include any and all Lease Guarantors) upon receipt from Administrative Agent of written notice that an Event of Default exists under the Loan Documents”;

(vi) The following new Section 7A is hereby added:

“7A. Bankruptcy.

a. Upon or at any time after the occurrence and during the continuance of an Event of Default, Administrative Agent shall have the right to proceed in its own name or in the name of Assignor in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Assignor, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

b. If there shall be filed by or against Assignor a petition under the Bankruptcy Code, and Assignor, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Assignor shall give Administrative Agent not less than ten (10) days’ prior notice of the date on which Assignor shall apply to the bankruptcy court for authority to reject the Lease. Administrative Agent shall have the right, but not the obligation, to serve upon Assignor within such ten (10) day period a notice stating that (i) Administrative Agent demands that Assignor assume and assign the Lease to Administrative Agent pursuant to Section 365 of the Bankruptcy Code and (ii) Administrative Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Administrative Agent serves upon Assignor the notice described in the preceding sentence, Assignor shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Administrative Agent of the covenant provided for in clause (ii) of the preceding sentence.”;

(vii) Section 15 is deleted in its entirety and the following substituted therefor:

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“15. Termination of Assignment. Upon payment in full of the Obligations without further act or deed, this Assignment shall become and be void and of no effect. Notwithstanding the foregoing, Administrative Agent agrees to execute and deliver such satisfaction, release or discharge (at Assignor’s sole cost and expense) as the Assignor may reasonably request upon payment in full of the Obligations.”; and

(viii) Exhibit A is hereby deleted in its entirety and replaced with Exhibit A attached hereto.

3. Confirmation and Restatement. The Borrower, to induce Administrative Agent and the Lenders to consummate the transactions contemplated by the Loan Agreement, and in order to continue to secure payments under the Loan Agreement, hereby confirms and restates the grant to Administrative Agent (on behalf of the Lenders) pursuant to (i) the Existing Instrument of the Property and (ii) the Existing ALRs of the Leases and Rents. Nothing contained in this Amendment shall be construed as (a) a novation of the Loan, (b) a release or waiver of all or any portion of the grant to Administrative Agent of the Property pursuant to the Existing Instrument or of the Leases and Rents pursuant to the Existing ALRs or (c) an impairment of the lien, charge or priority on the Existing Instrument upon the Property or the Existing ALRs upon the Leases and Rents.

4. Representations and Warranties.

(a) The Borrower hereby represents and warrants that the representations and warranties made by it in the Existing Instrument and the Existing ALRs are true and correct in all material respects on and as of the date hereof as if made on and as of the date hereof and as if each reference therein to this “Instrument”, “Mortgage” or this “Assignment” included reference to the Existing Instrument and the Existing ALRs, as applicable, as amended by this Amendment.

(b) Borrower has full power and authority to enter into this Amendment and perform its obligations hereunder, and Borrower’s execution and delivery of this Amendment has been duly authorized by all necessary corporate, partnership or limited liability company action. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any governmental authority or any other Person is necessary or required in connection with the execution, delivery or performance by Borrower of this Amendment other than in connection with perfecting security interests as provided in the Loan Documents. This Amendment has been duly executed and delivered, and constitutes the legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors’ rights generally, or by equitable principles relating to enforceability.

(c) As of the date hereof and immediately after giving effect to the Second Amended and Restated Loan Agreement and the Amendment Documents, including this Amendment, and the actions contemplated thereby, no Default or Event of Default shall have occurred and be continuing.

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5. Miscellaneous.

(a) Controlling Provisions. In the event of any inconsistencies between the provisions of this Amendment and the provisions of any other Loan Document, the provisions of this Amendment shall govern and prevail. Except as expressly amended, modified and supplemented by this Amendment, the Existing Instrument and the Existing ALRs shall remain unchanged and in full force and effect and are hereby ratified and confirmed.

(b) Further Assurances. At Administrative Agent's request, Borrower shall promptly execute any other document or instrument and/or seek any consent or agreement from any third party that Administrative Agent reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. At Administrative Agent's request, Borrower shall promptly cause any other Borrower or any of the holders of any equity interest in any other Borrower, as applicable, to execute any other document or instrument and/or diligently seek any consent or agreement from any third party that Administrative Agent reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. Borrower hereby authorizes Administrative Agent to file such amendments or supplements to any UCC Financing Statements filed in connection herewith, and to take such other actions as may be reasonably necessary, in order to continue and maintain the perfection of its Liens created under the Loan Documents.

(c) Counterparts. This Amendment may be executed by one or more of the parties to this Amendment in any number of separate counterparts, each of which, when so executed, shall be deemed an original, and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

(d) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that Borrower may not assign or transfer any of its rights or obligations under this Amendment or any of the Loan Documents without the prior written consent of Administrative Agent (which consent may be withheld in Administrative Agent's sole and absolute discretion).

(e) No Third Parties Benefited. This Amendment is made and entered into for the sole protection and legal benefit of Borrower, Administrative Agent, the Lenders and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Amendment or any of the other Loan Documents. Administrative Agent shall not have any obligation under this Amendment to any Person not a party to this Amendment or the other Loan Documents.

(f) **APPLICABLE LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED; PROVIDED, HOWEVER, THAT THE LOAN AGREEMENT IS BY ITS TERMS, GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW YORK AND IN THE EVENT THAT IT BECOMES NECESSARY, IN CONNECTION WITH THE ENFORCEMENT OF THIS AMENDMENT OR OTHERWISE, TO CONSTRUE OR ENFORCE THE OBLIGATIONS EVIDENCED BY**

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THE LOAN AGREEMENT, THE LOAN AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.

[Signature Pages Follow]

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COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

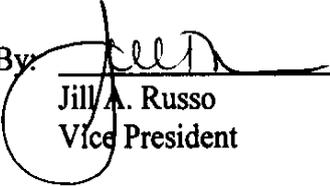
COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____ Office

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IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

BORROWER:

SB ARLINGTON FUNDING COMPANY, INC.,
a corporation incorporated under the laws
of the State of Delaware

By: 

Jill A. Russo
Vice President

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COOK COUNTY
RECORDER OF DEEDS
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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On February 25, 2010, before me, the undersigned, personally appeared Jill A. Russo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her capacity and that by her signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.



Signature and Office of individual
taking acknowledgement

Marie McAdory
Notary Public, State of New York
No. 01MC6212564
Qualified in Kings County
Commission Expires October 13, 2013

Property of Cook County
COOK COUNTY
RECORDED
SCANNED BY Clerk's Office

Acknowledgement

SB Arlington

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ADMINISTRATIVE AGENT:

**ING REAL ESTATE FINANCE (USA)
LLC, a Delaware limited liability company,
as Administrative Agent**

By: Craig Bender
Name: **CRAIG R. BENDER**
Title: **VICE PRESIDENT**

By: [Signature]
Name: **MICHAEL E. SHIELDS**
Title: **SENIOR DIRECTOR**

Property of Cook County
COOK COUNTY
RECORDER OF DEEDS
SCANNED BY [Signature] Clerk's Office

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STATE OF New York)
COUNTY OF New York) ss.:

On March 4, 2010, before me, the undersigned, personally appeared Cary L. Berdo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted executed the instrument.



Signature and Office of individual taking acknowledgement

DANIEL QUEVEDO
Notary Public, State of New York
No. 01QU6209469
Qualified in New York County
Commission Expires July 27, 2013

STATE OF New York)
COUNTY OF New York) ss.:

On March 4, 2010, before me, the undersigned, personally appeared Michael E. Shields, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted executed the instrument.



Signature and Office of individual taking acknowledgement

DANIEL QUEVEDO
Notary Public, State of New York
No. 01QU6209469
Qualified in New York County
Commission Expires July 27, 2013

Acknowledgement

UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION**

ARLINGTON HEIGHTS, IL

PARCEL 1:

LOT 3

(EXCEPTING THEREFROM THAT PART OF LOT 3 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTHEASTERLY ALONG A 2541.29 FOOT RADIUS CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 3, THE CENTER OF CIRCLE OF SAID CURVE BEARS ON AN ASSUMED BEARING OF NORTH 47 DEGREES 58 MINUTES 18 SECONDS EAST FROM SAID POINT, CENTRAL ANGLE 2 DEGREES 12 MINUTES 20 SECONDS, 97.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE CONCAVE TO THE NORTHEAST RADIUS 2541.29 FEET, CENTRAL ANGLE 11 DEGREES 26 MINUTES 54 SECONDS, 507.78 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHERLY ALONG A 30.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, CENTRAL ANGLE 55 DEGREES 04 MINUTES 09 SECONDS, 28.83 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 35 DEGREES 00 MINUTE 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 8 DEGREES 26 MINUTES 03 SECONDS, 375.52 FEET TO A POINT ON A 2546.12 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 02 DEGREES 14 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2546.12 FEET, CENTRAL ANGLE 2 DEGREES 18 MINUTES 00 SECONDS, 102.21 FEET; THENCE NORTH 40 DEGREES 00 MINUTES 33 SECONDS WEST 56.36 FEET TO THE POINT OF BEGINNING) IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE RECIPROCAL EASEMENT AGREEMENT BY AND BETWEEN URBS-SCHMITT AND KEPPEL INCORPORATED, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 3, 1979 AND KNOWN AS TRUST NUMBER 47058 AND OTHERS, DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND FILED OCTOBER 1, 1979 AS DOCUMENT LR 3121973 AND AS AMENDED BY INSTRUMENT RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR 3218008 FOR

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INGRESS AND EGRESS IN PART OF ARLINGTON PLACE SUBDIVISION AND TEULACH'S SUBDIVISION AS DELINEATED IN SAID AGREEMENT, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS BY AND AMONG AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 45170, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, SAID AGREEMENT BEING DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527048 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296792, OVER, UPON AND ACROSS LOT 1 FOR THE PURPOSE OF USING AND GAINING ACCESS TO A SURFACE WATER DETENTION/RETENTION POND LOCATED IMMEDIATELY EAST OF THE WESTERNMOST LINE OF LOT 1 IN ARLINGTON PLACE SUBDIVISION AFORESAID, AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED JANUARY 4, 1980 AS DOCUMENT 25306989 AND FILED JANUARY 4, 1980 AS DOCUMENT LR. 3139276 AND ALSO OVER, UPON AND ACROSS LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID FOR THE PURPOSE OF GAINING ACCESS TO SAID POND LOCATED ON SAID LOT 1 AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO THE AFORESAID AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS IDENTIFIED ABOVE, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF EASEMENT DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527049 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296793 BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 47058, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, OVER, UPON AND ACROSS THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID AS DEPICTED ON EXHIBIT "A", FOR CONSTRUCTING, RUNNING, MAINTAINING AND REPAIRING SANITARY SEWER LINES AND PIPES, IN COOK COUNTY, ILLINOIS.

ALSO COMMONLY KNOWN AS 95 WEST ALGONQUIN ROAD, ARLINGTON HEIGHTS, COOK COUNTY, ILLINOIS.

PERMANENT INDEX NUMBER 08-16-200-103-0000.

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Schedule A-1

Document:	Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing
Date:	June 28, 2005
Mortgagor:	SB Arlington Funding Company, Inc.
Mortgagee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: July 6, 2005 Doc/Num: 0518702189
Recording Office:	Cook County, Illinois

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SCANNED BY Clerk's Office

UNOFFICIAL COPYSchedule A-2

Document:	Assignment of Leases and Rents: Project Company Lease
Date:	June 28, 2005
Assignor:	SB Arlington Funding Company, Inc.
Assignee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: July 6, 2005 Doc/Num: 0518702190
Recording Office:	Cook County, Illinois

Property of Cook County
COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____
 Clerk's Office

UNOFFICIAL COPYSchedule A-3

Document:	Assignment of Assignment of Leases and Rents: End User Lease
Date:	June 28, 2005
Assignor:	SB Arlington Funding Company, Inc.
Assignee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: July 6, 2005 Doc/Num: 0518702191
Recording Office:	Cook County, Illinois

Property of Cook County
COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____
 Clerk's Office

UNOFFICIAL COPYSchedule A-4

Document:	Assignment of Leases and Rents: General Leases
Date:	June 28, 2005
Assignor:	SB Arlington Funding Company, Inc.
Assignee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: July 6, 2005 Doc/Num: 0518702192
Recording Office:	Cook County, Illinois

Property of Cook County
COOK COUNTY
RECORDS OF DEEDS
SCANNED BY _____
 Clerk's Office