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845705202 LK Dall

## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



1025633015

Doc#: 1025633015 Fee: \$108.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 09/13/2010 08:58 AM Pg: 1 of 37

Report Mortgage Fraud  
800-532-8785

The property identified as: PIN: 12-31-200-023-0000

**Address:**

**Street:** 505 RAILROAD AVENUE

**Street line 2:**

**City:** NORTHLAKE

**State:** IL

**ZIP Code:** 60164

**Lender:** EREF SPECIAL SITUATIONS, LLC; EAST ROCK SIMCO ENDOWMENT FUNDS LP; STEVEN SHORE AND LaM FINANCIAL HOLDINGS, LTD., LLC

**Borrower:** ASCENT CH2, LLC

**Loan / Mortgage Amount:** \$5,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 7/70 et seq. because it is commercial property.

**Box 400-CTCC**

S Y  
P 37  
S N  
SC Y  
INT Y

**Certificate number:** EA848B7E-9619-4908-AF9B-F2C7503A6B29

**Execution date:** 08/05/2010

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This document was prepared by,  
and after recording, return to:

David V. Hall  
DLA Piper LLP (US)  
203 N. LaSalle Street, Suite 1900  
Chicago, Illinois 60601

This space reserved for Recorders use only.

845705202027

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

This MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF RENTS AND LEASES AND FIXTURE FILING dated ~~23~~ of ~~July~~ <sup>August</sup> 5, 2010 (the "Mortgage"), is executed by Ascent CH2, LLC, a Delaware limited liability company (the "Mortgagor"), to and for the benefit of EREF Special Situations, LLC, a Delaware limited liability company, East Rock Simco Endowment Fund, LP, a Delaware limited partnership, Steven Shore, an individual, and LaM Financial Holdings, Ltd., LLLP, a Colorado limited liability limited partnership (collectively, the "Lender").

### RECITALS:

A. Simultaneously herewith, Lender is making a loan to the Mortgagor the principal amount of Five Million and 00/100 Dollars (\$5,000,000.00) (the "Loan"). The Loan shall be evidenced by that certain Promissory Note of even date herewith (as amended, restated or replaced from time to time, the "Note"), executed by the Mortgagor and made payable to the order of the Lender in the maximum principal amount of the Loan and due on May 17, 2012, subject to extension as provided in the Note (the "Maturity Date"), except as may be accelerated pursuant to the terms hereof, of the Note or of any other document or instrument now or hereafter given to evidence or secure the payment of the Note or delivered to induce the Lender to disburse the proceeds of the Loan (the Note, together with such other documents, as amended, restated or replaced from time to time, being collectively referred to herein as the "Loan Documents").

B. A condition precedent to the Lender's extension of the Loan to the Mortgagor is the execution and delivery by the Mortgagor of this Mortgage.

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**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor agrees as follows:

## **AGREEMENTS:**

The Mortgagor hereby mortgages, grants, assigns, remises, releases, warrants and conveys to the Lender, its successors and assigns, and grants a security interest in, the following described property, rights and interests (referred to collectively herein as the "Premises"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined below) and not secondarily:

(a) The real estate located in the County of Cook, State of Illinois and legally described on Exhibit "A" attached hereto and made a part hereof (the "Real Estate");

(b) All improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by the Mortgagor and located on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of the Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by the Mortgagor or on its behalf (the "Improvements");

(c) All easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of the Mortgagor of, in and to the same;

(d) All rents, revenues, issues, profits, proceeds, income, royalties, Letter of Credit Rights (as defined in the Uniform Commercial Code of the State of wherein the Premises are located (the "Code") in effect from time to time), escrows, security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by the Mortgagor thereon (including all revenues, rentals, rent equivalents, receipts, and any other items of revenue, receipts and/or income, to be applied against the Indebtedness (as hereinafter defined); provided, however, that the Mortgagor, so long as no Event of Default (as hereinafter defined) has occurred hereunder, may collect rent as it becomes due;

(e) All interest of the Mortgagor in all leases now or hereafter for space in the Improvements, whether written or oral (each, a "Lease", and collectively, the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to

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the conditional permission hereinabove given to the Mortgagor to collect the rentals under any such Lease;

(f) All fixtures and articles of personal property now or hereafter owned by the Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, boilers, bookcases, cabinets, carpets, computer hardware and software used in the operation of the Premises, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by the Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the indebtedness; notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute Goods (as defined in the Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in the Lender, as a Secured Party, and the Mortgagor, as Debtor, all in accordance with the Code;

(g) All of the Mortgagor's interests in General Intangibles, including Payment Intangibles and Software (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of the Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which the Mortgagor is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to the Mortgagor thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

(h) All of the Mortgagor's accounts now owned or hereafter created or acquired as relate to the Premises and/or the businesses and operations conducted thereon, including, without limitation, all of the following now owned or hereafter created or acquired by the Mortgagor: (i) Accounts (as defined in the Code), contract rights book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due or to become due to the Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or

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finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor); (v) Securities, Investment Property, Financial Assets and Securities Entitlements (each as defined in the Code); (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and (vii) all warranties, guarantees, permits and licenses in favor of the Mortgagor with respect to the Premises;

(i) All of the Mortgagor's right, title and interest in and to plans, specifications, surveys, architectural renderings and drawings, soil test reports, other reports or examinations of the Premises or any part thereof, architectural contracts, engineering contracts, construction contracts, subcontracts and contracts with material suppliers; all service contracts, maintenance contracts, management agreements, warranties, guaranties and the right to use all names now or hereafter used by the Mortgagor in connection with the Premises or any part thereof; all permits, certificates, licenses, approvals, contracts, entitlements and authorizations, however characterized, issued or in any way furnished for the acquisition, construction, development, operation, use and occupancy of the Premises or any part thereof, including without limitation, certificates of occupancy; and all claims, demands, judgments, insurance proceeds, rights of action, awards or damages, compensation and settlements resulting from the taking of all or any part of the Premises under the power of eminent domain or for any damage (whether caused by such taking or casualty or otherwise) to all or any part of the Premises in each case which the Mortgagor has, may have, or may subsequently directly or indirectly enter into, obtain or acquire in connection with the improvement, ownership, operation, leasing or maintenance of the Premises or any part thereof; and

(j) All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof.

**TO HAVE AND TO HOLD** the Premises, unto the Lender, its successor; and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence of any Event of Default; the Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

**FOR THE PURPOSE OF SECURING:** (i) the payment of the Loan and all interest, late charges and other indebtedness evidenced by or owing under the Note, any of the other Loan Documents, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of the Mortgagor or any other obligor to or benefiting the Lender which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other Loan Documents; and (iii) the reimbursement to the Lender of any and all sums incurred, expended or advanced by the Lender pursuant to any term or

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provision of or constituting additional indebtedness under or secured by this Mortgage or any of the other Loan Documents, with interest thereon as provided herein or therein (collectively, the "Indebtedness").

The Note evidences a debt created by one or more disbursements made by Lender to Mortgagor to finance the cost of the construction of certain improvements upon the Real Estate in accordance with the provisions of this Mortgage and the Note and certain other agreements, and this Mortgage is a construction mortgage as such term is defined in Section 9 334(h) of the Code. Upon the occurrence of any default, the holder of the Note may at its option declare the Indebtedness immediately due and payable, or complete the construction of said improvements and enter into the necessary contracts therefor, in which case all money expended shall be so much additional Indebtedness and any money expended in excess of the amount of the original principal shall be immediately due and payable with interest until paid at the default interest rate. All future advances shall be made within twenty (20) years of the date hereof.

## IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Title.**

The Mortgagor represents, warrants and covenants that (a) the Mortgagor is the holder of the fee simple title to the Real Property and Improvements, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of the Lender and as otherwise described on Exhibit "B" attached hereto and made a part hereof (the "Permitted Exceptions"); and (b) the Mortgagor has legal power and authority to mortgage and convey the Premises.

2. **Maintenance, Repair, Restoration, Prior Liens, Parking.**

The Mortgagor covenants that, so long as any portion of the Indebtedness remains unpaid, the Mortgagor will:

(a) promptly repair, restore or rebuild any Improvements now or hereafter on the Premises and keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to the Mortgagor's right to contest liens as permitted by the terms of Section 27 hereof);

(b) pay when due the Indebtedness in accordance with the terms of the Note and the other Loan Documents and duly perform and observe all of the terms, covenants and conditions to be observed and performed by the Mortgagor under the Note, this Mortgage and the other Loan Documents;

(c) pay when due any indebtedness which may be secured by a permitted lien or charge on the Premises on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Lender (subject to the Mortgagor's right to contest liens as permitted by the terms of Section 27 hereof);



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(d) comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof;

(e) obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of its obligations under this Mortgage;

(f) suffer or permit no change in the intended use or general nature of the intended occupancy of the Premises as a data center, without the Lender's prior written consent;

(g) pay when due all operating costs of the Premises; and

(h) shall comply, and shall cause the Premises at all times to be operated in compliance, with all applicable federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations, including, without limitation, Mortgagor shall (i) use reasonable efforts to ensure that no person who owns twenty percent (20.00%) or more of the equity interests in the Mortgagor, or otherwise controls the Mortgagor or any of its subsidiaries is on the date of this Mortgage listed on the Specially Designated Nationals and Blocked Person List or other similar lists maintained by the Office of Foreign Assets Control ("OFAC"), the Department of the Treasury or included in any Executive Orders, (ii) not use or permit the use of the proceeds of the Loan to violate any of the foreign asset control regulations of OFAC or any enabling statute or Executive Order relating thereto, and (iii) comply with all applicable Bank Secrecy Act ("BSA") laws and regulations, as amended.

### 3. Payment of Taxes and Assessments.

The Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), if applicable to the Premises or the Indebtedness, or any obligation or agreement secured hereby, subject to the Mortgagor's right to contest the same, as provided by the terms hereof.

### 4. Intentionally Omitted.

### 5. Intentionally Omitted.

### 6. Insurance.

(a) The Mortgagor shall at all times keep and maintain the insurance coverages described on Exhibit C of the Limited Liability Company of the Mortgagor as of the date hereof (the "LLC Agreement"). Unless the Mortgagor provides the Lender evidence of the insurance coverages required herein, the Lender may purchase insurance at the Mortgagor's expense to cover the Lender's interest in the Premises. The insurance may,

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but need not, protect the Mortgagor's interest. The coverages that the Lender purchases may not pay any claim that the Mortgagor makes or any claim that is made against the Mortgagor in connection with the Premises. The Mortgagor may later cancel any insurance purchased by the Lender, but only after providing the Lender with evidence that the Mortgagor has obtained insurance as required by this Mortgage. If the Lender purchases insurance for the Premises, the Mortgagor will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which the Lender may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness. The cost of the insurance may be more than the cost of insurance the Mortgagor may be able to obtain on its own.

(b) The Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless the Lender is included thereon as the loss payee or an additional insured as applicable, under a standard mortgage clause acceptable to the Lender and such separate insurance is otherwise acceptable to the Lender.

(c) In the event of loss, the Mortgagor shall give prompt notice thereof to the Lender. The Lender solely and directly shall receive such payment for loss from each insurance company concerned. The Lender shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by the Lender pursuant to the terms of this section, after the payment of all of the Lender's expenses, either (i) on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon the Lender may declare the whole of the balance of Indebtedness to be due and payable, or (ii) to the restoration or repair of the property damaged as provided in subsection (d) below; provided, however, that the Lender hereby agrees to permit the application of such proceeds to the restoration or repair of the damaged property, subject to the provisions of subsection (d) below, if (i) the Lender has received satisfactory evidence that such restoration or repair shall be completed no later than the date that is six (6) months prior to the Maturity Date and that insurance proceeds equal or exceed the reasonable costs of such restoration or repair, and (ii) no Event of Default, or event that with the passage of time, the giving of notice or both would constitute an Event of Default, then exists. If insurance proceeds are made available to the Mortgagor by the Lender as hereinafter provided, the Mortgagor shall repair, restore or rebuild the damaged or destroyed portion of the Premises so that the condition and value of the Premises are substantially the same as the condition and value of the Premises prior to being damaged or destroyed.

(d) If insurance proceeds are made available by the Lender to the Mortgagor, the Mortgagor shall comply with any reasonable conditions imposed by the Lender. If the Mortgagor shall fail to timely restore, repair or rebuild the Improvements within a time deemed satisfactory by the Lender, then the Lender, at its option, may declare an Event of Default. If insurance proceeds shall exceed the amount necessary to complete the repair, restoration or rebuilding of the Improvements, such excess shall be applied on account of



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the Indebtedness irrespective of whether such Indebtedness is then due and payable without payment of any premium or penalty.

7. **Condemnation.**

If all or any part of the Premises is damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid Indebtedness, is hereby assigned to the Lender, who is empowered to collect and receive the same and to give proper receipts therefor in the name of the Mortgagor and the same shall be paid forthwith to the Lender. Such award or monies shall be applied on account of the Indebtedness, irrespective of whether such Indebtedness is then due and payable and, at any time from and after the taking the Lender may declare the whole of the balance of the Indebtedness to be due and payable. Notwithstanding the provisions of this section to the contrary, if any condemnation or taking of less than the entire Premises occurs and provided that no Event of Default and no event or circumstance which with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and if such partial condemnation, in the reasonable discretion of the Lender, has no material adverse effect on the operation or value of the Premises, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by the Mortgagor, and the Lender hereby agrees that in such event it shall not declare the Indebtedness to be due and payable, if it is not otherwise then due and payable.

8. **Stamp Tax.**

If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over the Mortgagor, any tax is due or becomes due in respect of the execution and delivery of this Mortgage, the Note or any of the other Loan Documents, the Mortgagor shall pay such tax in the manner required by any such law. The Mortgagor further agrees to reimburse the Lender for any sums which the Lender may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, the Mortgagor shall not be required to pay any income or franchise taxes of the Lender.

9. **Lease Assignment.**

To further secure the Indebtedness, the Mortgagor hereby assigns unto the Lender, all of the rents, leases and income now or hereafter due under any Leases agreed to by the Mortgagor, it being the intention hereby to establish an absolute transfer and assignment of all such Leases, rents and income thereunder, to the Lender. The Mortgagor hereby irrevocably appoints the Lender its attorney-in-fact (this power of attorney and any other powers of attorney granted herein are powers coupled with an interest and cannot be revoked, modified or altered without the written consent of the Lender) with or without taking possession of the Premises as provided herein, to lease any portion of the Premises to any party upon such terms as the Lender shall determine, and to collect all rents due under each of the Leases, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity

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as the Lender would have upon taking possession pursuant to the provisions hereof. The Mortgagor agrees that it will not assign any of the rents or profits of the Premises, except to a purchaser or grantee of the Premises. Nothing herein contained shall be construed as constituting the Lender a mortgagee in possession in the absence of the taking of actual possession of the Premises by the Lender pursuant hereto. The Mortgagor expressly waives all liability of the Lender in the exercise of the powers herein granted to the Lender, for its benefit and for the benefit of the Secured Parties. The Mortgagor shall assign to the Lender all future leases upon any part of the Premises and shall execute and deliver, at the request of the Lender, all such further assurances and assignments in the Premises as the Lender shall reasonably require from time to time. Although the assignment contained in this Section is a present assignment, the Lender shall not exercise any of the powers conferred upon it by this Section until an Event of Default shall exist under this Mortgage.

10. **Effect of Extensions of Time and Other Changes.**

If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged under the Note is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in the Mortgagor, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, notwithstanding such extension, variation, release or change.

11. **Effect of Changes in Laws Regarding Taxation.**

If any law is enacted after the date hereof requiring (a) the deduction of any lien on the Premises from the value thereof for the purpose of taxation or (b) the imposition upon the Lender of the payment of the whole or any part of the Taxes, charges or liens herein required to be paid by the Mortgagor, or (c) a change in the method of taxation of mortgages or debts secured by mortgages or the Lender's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the Indebtedness or the holders thereof, then the Mortgagor, upon demand by the Lender, shall pay such Taxes or charges, or reimburse the Lender therefor; provided, however, that the Mortgagor shall not be deemed to be required to pay any income or franchise taxes of the Lender. Notwithstanding the foregoing, if in the opinion of counsel for the Lender it is or may be unlawful to require the Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then the Lender may declare all of the Indebtedness to be immediately due and payable on a date which is not earlier than ninety (90) days after written notice to Mortgagor of Lender's intention to accelerate.

12. **Lender's Performance of Defaulted Acts and Expenses Incurred by Lender.**

If an Event of Default has occurred, the Lender may, but need not, make any payment or perform any act herein required of the Mortgagor in any form and manner deemed expedient by the Lender, and may, but need not, make full or partial payments of principal or interest on prior

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encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of the Mortgagor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by the Lender in regard to any tax referred to in Section 8 above or to protect the Premises or the lien hereof, shall be so much additional Indebtedness, and shall become immediately due and payable by the Mortgagor to the Lender, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate (as defined in the Note). In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by the Lender in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting or enforcing any of the Lender's rights hereunder, (c) recovering any Indebtedness, (d) any litigation or proceedings affecting the Note, this Mortgage, any of the other Loan Documents or the Premises, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting the Note, this Mortgage, any of the other Loan Documents or the Premises, shall be so much additional Indebtedness, and shall become immediately due and payable by the Mortgagor to the Lender, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. The interest accruing under this section shall be immediately due and payable by the Mortgagor to the Lender, and shall be additional Indebtedness evidenced by the Note and secured by this Mortgage. The Lender's failure to act shall never be considered as a waiver of any right accruing to the Lender on account of any Event of Default. Should any amount paid out or advanced by the Lender hereunder, or pursuant to any agreement executed by the Mortgagor in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then the Lender 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, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

### 13. Security Agreement.

The Mortgagor and the Lender agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of the Mortgagor or held by the Lender (whether deposited by or on behalf of the Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Documents, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "Fixture" (within the meaning of Section 9-102(41) of the Code and which property is hereinafter referred to as "Personal Property"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "Supporting Obligations" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Lender, and the Collateral and all of the Mortgagor's right, title and interest therein are hereby assigned to the Lender, all to secure

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payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this section shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

(a) The Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting the Lender and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(b) The Collateral is to be used by the Mortgagor solely for business purposes.

(c) The Collateral will be kept at the Real Estate and, except for Obsolete Collateral (as hereinafter defined) and Collateral removed during the initial partial demolition and remodeling of the Improvements and construction of tenant improvements, will not be removed therefrom without the consent of the Lender (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Premises are the Mortgagor, the Lender and holders of interests, if any, expressly permitted hereby.

(e) Unless Lender has agreed, in Lender's sole and absolute discretion, in writing to subordinate the lien of this Mortgage to construction financing for the Premises, no Financing Statement (other than Financing Statements showing the Lender as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and the Mortgagor, at its own cost and expense, upon demand, will furnish to the Lender such further information and will execute and deliver to the Lender such financing statements and other documents in form satisfactory to the Lender and will do all such acts as the Lender may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting the Lender and no other party, and liens and encumbrances (if any) expressly permitted hereby; and the Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Lender to be desirable. The Mortgagor hereby irrevocably authorizes the Lender at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto, without the signature of the Mortgagor that (i) indicate the Collateral (A) is comprised of all assets of the Mortgagor or words of similar effect, regardless of whether any particular asset comprising a part of the Collateral falls within the scope of Article 9 of the Code of the jurisdiction wherein such financing statement or amendment is filed, or (B) as being of an equal or lesser scope or within greater detail as the grant of the security



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interest set forth herein, and (ii) contain any other information required by Section 5 of Article 9 of the Code regarding the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether the Mortgagor is an organization, the type of organization and any organizational identification number issued to the Mortgagor, and (B) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of the real property to which the Collateral relates. The Mortgagor agrees to furnish any such information to the Lender promptly upon request. The Mortgagor further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by the Lender in any jurisdiction prior to the date of this Mortgage. In addition, the Mortgagor shall make appropriate entries on its books and records disclosing the Lender's security interests in the Collateral. The Mortgagor shall sign and execute alone or with the Lender any other document or procure any documents and pay any connected costs, expenses and fees, including court costs and reasonable attorneys' fees, necessary to protect the security interest under this Mortgage against the rights, interests or claims of third parties.

(f) Upon an Event of Default hereunder, the Lender shall have the remedies of a secured party under the Code including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as the Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Lender shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to the Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations, as provided in the Code. The Lender may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. The Lender may require the Mortgagor to assemble the Collateral and make it available to the Lender for its possession at a place to be designated by the Lender which is reasonably convenient to both parties. The Lender will give the Mortgagor at least ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of the Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. The Lender may buy at any public sale. The Lender may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If the Lender so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by the Lender, shall be applied against the Indebtedness in such order or manner as the

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Lender shall select. The Lender will account to the Mortgagor for any surplus realized on such disposition.

(g) The terms and provisions contained in this section, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(h) This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of the Mortgagor (Debtor) and the Lender (Secured Party) are hereinbelow set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Premises are located. The Mortgagor is the record owner of the Premises.

(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between the Mortgagor or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of the Mortgagor, as lessor thereunder.

(j) The Mortgagor represents and warrants that: (i) the Mortgagor is the record owner of the Premises; (ii) the Mortgagor's chief executive office is located in the State of Missouri; (iii) the Mortgagor's state of formation is the State of Delaware; (iv) the Mortgagor's exact legal name is as set forth on Page 1 of this Mortgage; and (v) the Mortgagor's Delaware organizational identification number is 4816437.

#### 14. **Restrictions on Transfer.**

(a) The Mortgagor, without the prior written consent of the Lender, shall not effect, suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of the Premises or any part thereof or interest therein (a "Prohibited Transfer"), excepting only sales or other dispositions of (A) Collateral ("Obsolete Collateral") no longer useful in connection with the operation of the Premises, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral, (B) Collateral removed during the initial partial demolition and remodeling of the Improvements, and (C) Collateral removed in connection with the construction of tenant improvements; provided, however, that the foregoing provisions of this section shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, or (iii) to Leases. In no event will this Section be construed to grant Lender any right to consent to the marketing of the Property by the one or more members of Borrower in accordance with the provisions of company agreement for Mortgagor.



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## 15. Events of Default; Acceleration.

Each of the following shall constitute an "Event of Default" for purposes of this Mortgage:

(a) The Mortgagor fails to perform or cause to be performed any obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by the Mortgagor under this Mortgage; provided, however, that if such failure by its nature can be cured, then so long as the continued operation and safety of the Premises, and the priority, validity and enforceability of the liens created by the Mortgage or any of the other Loan Documents and the value of the Premises are not impaired, threatened or jeopardized, then the Mortgagor shall have a period (the "Cure Period") of thirty (30) days after the Mortgagor obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period, provided further that if the Mortgagor commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for thirty (30) additional days, but in no event shall the Cure Period be longer than sixty (60) days in the aggregate;

(b) the occurrence of a Prohibited Transfer; or

(c) the occurrence of an Event of Default under the Note or any of the other Loan Documents, after the receipt of any required notice and expiration of any applicable grace period.

If an Event of Default occurs, the Lender may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to the Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Rate.

Notwithstanding anything in this Mortgage or any other Loan Document to the contrary, none of the following will be Events of Default:

(a) the failure of Mortgagor to repair or restore the Premises after the occurrence of a casualty or partial condemnation because of a lack of funds resulting from an election by Lender to apply the insurance proceeds or condemnation award to the Indebtedness; or

(b) the failure of Mortgagor to pay timely any amount due under the Loan, if such failure resulted from the default, bankruptcy or loss of one or more tenants of the Improvements.

## 16. Foreclosure; Expense of Litigation.

(a) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof for

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such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act").

(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Lender for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as the Lender may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this section and such other expenses and fees as may be incurred in the enforcement of the Mortgagor's obligations hereunder, the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by the Lender in any litigation or proceeding affecting this Mortgage, the Note, or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by the Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

17. **Application of Proceeds of Foreclosure Sale.**

The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as the Lender may determine in its sole and absolute discretion.

18. **Appointment of Receiver.**

Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by the Lender, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and the Lender hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when the Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to

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the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

19. **Lender's Right of Possession in Case of Default.**

At any time after an Event of Default has occurred, the Mortgagor shall, upon demand of the Lender, surrender to the Lender possession of the Premises. The Lender, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude the Mortgagor and its employees, agents or servants therefrom, and the Lender may then hold, operate, manage and control the Premises, either personally or by its agents. The Lender shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, the Lender shall have full power to:

(a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle the Mortgagor to cancel the same;

(b) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;

(c) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date 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 the Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

(d) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as the Lender deems are necessary;

(e) insure and reinsure the Premises and all risks incidental to the Lender's possession, operation and management thereof; and

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- (f) receive all of such avails, rents, issues and profits.

20. **Application of Income Received by Lender.**

The Lender, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as the Lender may determine:

(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to the Lender and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and

(c) to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

21. **Compliance with Illinois Mortgage Foreclosure Law.**

(a) If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to the Lender (including the Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 18 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in the Lender or in such receiver under the Act in the absence of said provision, the Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by the Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Sections 12, 16 or 18 of this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

22. **Rights Cumulative.**

Each right, power and remedy herein conferred upon the Lender is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter

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existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Lender, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of the Lender in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

23. **Lender's Right of Inspection.**

The Lender and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable times upon not less than twenty four (24) hours prior notice to the Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

24. **Release Upon Payment and Discharge of Mortgagor's Obligations.**

The Lender shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by the Lender in connection with the execution of such release.

25. **Notices.**

Any notices, communications and waivers under this Mortgage shall be in writing and shall be (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (c) sent by overnight express carrier, addressed in each case as follows:

To the Lender:

c/o East Rock Capital LLC  
10 East 53rd Street, 31st Floor  
New York, New York 10022  
Attn: Adam Shapiro  
Facsimile No.:(212) 624-0231

With a copy to:

David V. Hall  
DLA Piper LLP (US)  
203 N. LaSalle Street, Suite 1900  
Chicago, Illinois 60601  
Telephone: (312) 368-7279  
Facsimile No.: (312) 630-5369

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To the Mortgagor: Ascent CH2, LLC  
 9643 Olive Boulevard  
 St. Louis, Missouri 63132  
 Attn: Phil Horstmann  
 Telephone: (314) 989-1011  
 Facsimile No.: (314) 989-1122

With copy to: Thompson Coburn LLP  
 One US Bank Plaza  
 St. Louis, Missouri 63101  
 Attn: Craig A. Olschansky  
 Telephone: (314) 552-6483  
 Facsimile No.: (314) 552-7483

and Aaron Johnston, Jr.  
 Munsch Hardt Kopf & Harr PC  
 3800 Lincoln Plaza  
 500 North Akard Street  
 Dallas, Texas 75201-6659  
 Telephone: (214) 855-7517  
 Facsimile No.: (214) 978-4367

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next federal banking day immediately following the day sent, or (iii) if sent by registered or certified mail, then on the earlier of the third federal banking day following the day sent or when actually received.

26. **Waiver of Rights.**

The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

- (a) The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons



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are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15-1601 or other applicable law or replacement statutes;

(b) The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Lender but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

(c) If the Mortgagor is a trustee, the Mortgagor represents that the provisions of this section (including the waiver of reinstatement and redemption rights) were made at the express direction of the Mortgagor's beneficiaries and the persons having the power of direction over the Mortgagor, and are made on behalf of the trust estate of the Mortgagor and all beneficiaries of the Mortgagor, as well as all other persons mentioned above.

## 27. Contests.

Notwithstanding anything to the contrary herein contained, the Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Premises (each, a "Contested Liens"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

(a) The Mortgagor shall forthwith give notice of any Contested Lien to the Lender at the time the same shall be asserted;

(b) The Mortgagor shall either pay under protest or deposit with the Lender the full amount (the "Lien Amount") of such Contested Lien, together with such amount as the Lender may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment the Mortgagor may furnish to the Lender a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to the Lender;

(c) The Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit the Lender to be represented in any such contest and shall pay all expenses incurred, in so doing, including fees and expenses of the Lender's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand);

(d) The Mortgagor shall pay each such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to the Mortgagor, or (ii) forthwith upon demand by the Lender if, in the opinion of the Lender, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if

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the Mortgagor shall fail so to do, the Lender may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Lender to obtain the release and discharge of such liens; and any amount expended by the Lender in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that the Lender may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

28. **Expenses Relating to Note and Mortgage.**

(a) The Mortgagor will pay all expenses, charges, costs and fees relating to the enforcement of the Note, this Mortgage and the other Loan Documents, including without limitation, the Lender's reasonable attorneys' fees in connection therewith, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided the Mortgagor shall not be required to pay any income or franchise taxes of the Lender), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage.

(b) All expenses, charges, costs and fees described in this section shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by the Mortgagor forthwith upon demand.

29. **Further Instruments.**

Upon request of the Lender, the Mortgagor shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

30. **Additional Indebtedness Secured.**

All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note, any of the other Loan Documents or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by the Lender to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

31. **Indemnity.**

"Claims" means all demands or legal actions (whether filed or threatened). "Loss" means any actual or alleged liability, cost or expense, loss, damage, hurt, judgment, or penalty of

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whatever nature or description, incurred by a person or property. "Release" means to waive or relinquish a right or release another person from liability in connection with a Claim or Loss.

The Mortgagor hereby covenants and agrees that no Claim shall be asserted or enforced against the Lender in the exercise of the rights and powers granted to the Lender in this Mortgage, and the Mortgagor hereby expressly Releases any such Claim, except to the extent resulting from the gross negligence or willful misconduct of the Lender. The Mortgagor shall indemnify and save the Lender harmless from and against any and all Claims and Losses, including reasonable attorneys' fees and court costs which may be imposed on, incurred by or asserted against the Lender at any time by any third party which relate to or arise from: (a) this Mortgage or for the purpose of protecting the lien of this Mortgage; and (b) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims or Losses relate to or arise from actions taken prior to the surrender of possession of the Premises to the Lender in accordance with the terms of this Mortgage; provided, however, that the Mortgagor shall not be obligated to indemnify or hold the Lender harmless from and against any Claims or Losses directly arising from the gross negligence or willful misconduct of the Lender. All costs provided for herein and paid for by the Lender shall be so much additional Indebtedness and shall become immediately due and payable upon demand by the Lender and with interest thereon from the date incurred by the Lender until paid at the Default Rate.

## 32. Subordination; Plans and Specifications.

Borrower shall cause each of the property manager and the developer to execute and deliver to Lender a subordination agreement in form reasonably acceptable to Lender which, among other things, shall permit the property management agreement and the development agreement to be terminated without cost or expense following the occurrence of an Event of Default.

Borrower shall cause the property manager or any other affiliate of Borrower which holds any interest in the plans and specifications for the Property or any part thereof, as the same may be developed from time to time, to assign such party's right, title and interest to the use of such plans and specifications for the Property, pursuant to an assignment agreement in form and substance reasonably acceptable to Lender.

## 33. Miscellaneous.

(a) Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon and enforceable against the Mortgagor and its assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of the Lender, its successors and assigns and any holder or holders, from time to time, of the Note.

(b) Invalidity of Provisions; Governing Law. In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Mortgagor and the Lender shall negotiate an equitable adjustment in the provisions of the

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same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Mortgage is to be construed in accordance with and governed by the laws of the State of Illinois.

(c) Rights of Tenants. The Lender shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of the Lender. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by the Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding. Lender will execute (i) any commercially reasonable subordination, non-disturbance and attornment agreement requested by a tenant under a lease for space in the Improvements, which lease has been approved in accordance with the "Major Decision" procedures contained in Section 7.3 of the company agreement for Mortgagor and (ii) any commercially reasonable access/waiver of lien agreements requested by such tenant's equipment lenders or lessors.

(d) Option of Lender to Subordinate. At the option of the Lender, 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 or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by the Lender of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated. Lender will execute a commercially reasonable subordination, non-disturbance and attornment agreement requested by the tenant under a lease for space in the Improvements, which lease has been approved in accordance with the "Major Decision" procedures contained in Section 7.3 of the company agreement for Mortgagor.

(e) Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting the Lender a mortgagee-in-possession in the absence of the actual taking of possession of the Premises by the Lender pursuant to this Mortgage.

(f) Relationship of Lender and Mortgagor. The Lender shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of the Mortgagor or of any lessee, operator, concessionaire or licensee of the Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, the Lender shall not be deemed to be such partner, joint venturer, agent or associate on account of the Lender becoming a mortgagee-in-possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of the Mortgagor and the Lender hereunder is solely that of debtor/creditor.

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(g) Time of the Essence. Time is of the essence of the payment by the Mortgagor of all amounts due and owing to the Lender under the Note and the other Loan Documents and the performance and observance by the Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

(h) No Merger. The parties hereto intend that the Mortgage and the lien hereof shall not merge in fee simple title to the Premises, and if the Lender acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by the Lender as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

(i) Maximum Indebtedness. Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to \$10,000,000.00; provided, however, in no event shall the Lender be obligated to advance funds in excess of the face amount of the Note.

(j) No Personal Liability. Lender and Mortgagor intend that except as expressly provided to the contrary in that certain Guaranty of Non Recourse Carve-Outs dated July \_\_, 2010 and executed by Craig Olschansky, Phil Horstmann and Grande Property Holdings, LLC for the benefit of Lender, the members of Mortgagor and the holders of ownership interests in such members will have no liability as to the Indebtedness or the performance of any covenants and agreements of Mortgagor in this Mortgage or any other Loan Document.

(k) No Assignment by Lender. Notwithstanding any provision in this Mortgage, the Note or any other Loan Document to the contrary, Lender will not sell, assign, convey or transfer all or any part of its interest in the Loan or the Loan Documents without the prior written consent of Mortgagor, except to a person or entity to whom Lender (or any entity comprising Lender), as a member of Borrower, is permitted to assign its interest under the operating agreement of Borrower without the consent of any other party.

(l) CONSENT TO JURISDICTION. TO INDUCE THE LENDER TO ACCEPT THE NOTE, THE MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE NOTE AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. THE MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON THE MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE MORTGAGOR AT THE

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ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(m) WAIVER OF JURY TRIAL. THE MORTGAGOR AND THE LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (B) ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THE MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST THE LENDER OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

(n) Complete Agreement. This Mortgage, the Note and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both the Mortgagor and the Lender.

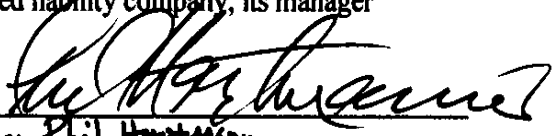


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**IN WITNESS WHEREOF**, the Mortgagor has executed and delivered this Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing the day and year first above written.

**ASCENT CH2, LLC**, a Delaware limited liability company

By: Grande Property Holdings, LLC, a Missouri limited liability company, its manager

By:   
Name: Phil Hartman  
Title: Co-Manager

Property of Cook County Clerk's Office

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STATE OF Missouri  
COUNTY OF St. Louis ) SS.

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Phil Horstmann, the Manager of Grande Property Holdings, LLC, a Missouri limited liability company, the Manager of Ascent CH2, LLC, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability companies, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 5<sup>th</sup> day of ~~July~~<sup>Aug</sup>, 2010.

Jamie D. Foster  
Notary Public

**JAMIE L. LESTER**  
Notary Public - Notary Seal  
STATE OF MISSOURI  
St. Louis County  
08487514

My Commission Expires:

2/24/2012

My Commission Expires 2 / 24 / 2012



Property of Cook County Clerk's Office

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## EXHIBIT "A"

### LEGAL DESCRIPTION OF REAL ESTATE

#### PARCEL 1:

LOTS 1 AND 3 IN NORTHLAKE BUSINESS PARK, BEING A SUBDIVISION OF PART OF THE EAST 1/2 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE ACCESS AND SIGNAGE EASEMENT AGREEMENT RECORDED JULY 11, 2001 AS DOCUMENT 0010614059 AND AMENDED BY DOCUMENT 0810022023 FOR INGRESS AND EGRESS OVER AND UPON AN EASEMENT AREA ALONG THE SOUTH LINE OF LOT 2 IN AFORESAID NORTHLAKE BUSINESS PARK SUBDIVISION AND OVER AND UPON AN EASEMENT AREA ALONG THE EAST LINE OF LOT 4 AND THE SOUTH LINE OF LOT 3 IN NORTHLAKE BUSINESS CAMPUS RESUBDIVISION, AS SHOWN ON EXHIBITS F, H, I, J AND K ATTACHED THERETO.

#### PARCEL 3:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE UTILITY EASEMENT AGREEMENT AND OPTION FOR STORMWATER MANAGEMENT EASEMENT RECORDED JULY 11, 2001 AS DOCUMENT 0010614060 AND AS AMENDED BY FIRST AMENDMENT RECORDED NOVEMBER 27, 2001 AS DOCUMENT 0011110644, FOR THE PURPOSES OF OPERATING, REPAIRING, MAINTAINING AND REPLACING; A SINGLE EXISTING WATER LINE, STORMWATER DRAINAGE LINES, ELECTRIC LINES, AND PUBLIC UTILITIES AND RELATED APPURTENANCES, OVER AND UPON THAT PART OF LOT 2 IN NORTHLAKE BUSINESS PARK SUBDIVISION AFORESAID AND LOTS 3 AND 4 IN NORTHLAKE BUSINESS CAMPUS SUBDIVISION AS SHOWN ON EXHIBITS D, E, F, G, H, I, J AND K ATTACHED THERETO.

#### PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE FINAL PLAT OF RESUBDIVISION FOR NORTHLAKE BUSINESS PARK RECORDED AS DOCUMENT 0010613545 FOR INGRESS AND EGRESS OVER THE SOUTH 50 FEET OF LOT 2 IN AFORESAID SUBDIVISION.

#### PARCEL 5 (RAILROAD AVENUE):

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EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 OVER THAT PORTION OF THE LAND LOCATED OUTSIDE OF AND ABUTTING LOT 1, PARCEL 1 BOUNDARY DESCRIBED ABOVE, FOR THE BENEFIT OF PARCEL 1 ACROSS A PARCEL OF LAND IN THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN THE WEST LINE OF SAID NORTHEAST 1/4, 1064.15 FEET SOUTH OF THE NORTH LINE OF SAID NORTHEAST 1/4; THENCE EAST AT RIGHT ANGLES TO THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 849.69 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 43.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 806.69 FEET TO A POINT 43.00 FEET EAST OF THE WEST LINE OF SAID NORTHEAST 1/4; THENCE SOUTH PARALLEL TO THE WEST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 913.00 FEET; THENCE WEST AT RIGHT ANGLES TO THE EAST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 43.00 FEET TO THE WEST LINE OF SAID NORTHEAST 1/4; THENCE NORTH ALONG THE WEST LINE OF SAID NORTHEAST 1/4 A DISTANCE OF 956.00 FEET TO THE POINT OF BEGINNING AS SET FORTH IN DOCUMENTS RECORDED AS 26094902, 26099442 AND 09066007, AS AMENDED BY ACCESS AND SIGNAGE EASEMENT AGREEMENT DATED JULY 9, 2001 AND RECORDED JULY 11, 2001 AS DOCUMENT NUMBER 0010614059 AND FIRST AMENDMENT TO ACCESS AND SIGNAGE EASEMENT AGREEMENT DATED APRIL 7, 2008, RECORDED APRIL 9, 2008, AS DOCUMENT NUMBER 0810022023.

PARCEL 6 (PALMER EXTENSION):

EASEMENT FOR INGRESS AND EGRESS FOR THE BENEFIT OF PARCEL 1 ACROSS A PARCEL OF LAND IN THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION; THENCE EAST ALONG THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION A DISTANCE OF 320.33 FEET; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID SECTION A DISTANCE OF 66.00 FEET; THENCE WEST PARALLEL TO THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION A DISTANCE OF 372.33 FEET; THENCE NORTH PARALLEL TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION A DISTANCE OF 411.98 FEET; THENCE EAST AT A RIGHT ANGLE TO THE EAST LINE OF SAID SECTION A DISTANCE OF 52.00 FEET TO THE WEST LINE OF THE NORTHEAST 1/4 OF THE NORTHEAST 1/4 OF SAID SECTION; THENCE SOUTH ALONG SAID WEST LINE A DISTANCE OF 346.37 FEET TO THE POINT OF BEGINNING AS SET FORTH IN DOCUMENTS RECORDED AS NO. 26099443, 26094902, 97499117 AND 09066007, AS AMENDED BY ACCESS AND

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SIGNAGE EASEMENT AGREEMENT DATED JULY 9, 2001 AND RECORDED JULY 11, 2001 AS DOCUMENT NUMBER 0010614059 AND FIRST AMENDMENT TO ACCESS AND SIGNAGE EASEMENT AGREEMENT DATED APRIL 7, 2008, RECORDED APRIL 9, 2008, AS DOCUMENT NUMBER 0810022023.

**PARCEL 7:**

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE GRANT OF EASEMENT RECORDED AS DOCUMENT 21332145 FOR INGRESS AND EGRESS OVER THE FOLLOWING DESCRIBED LAND:

BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF AFORESAID SECTION 31, 541 FEET WEST OF THE EAST LINE OF SECTION 31; THENCE SOUTH ALONG A LINE MAKING AN ANGLE OF 100 DEGREES 03 MINUTES WITH THE LAST DESCRIBED NORTH LINE OF THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 TO A POINT ON THE SOUTHERLY BOUNDARY OF PALMER AVENUE, A DISTANCE OF 17 FEET, MORE OR LESS; THENCE WEST ALONG SAID SOUTHERLY BOUNDARY OF PALMER AVENUE TO A POINT ON THE SOUTHERLY BOUNDARY OF THE PRIVATE ASPHALT EXTENSION OF PALMER AVENUE, WHICH IS 56 FEET SOUTH OF SAID NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4 AND 1001 FEET WEST OF THE EAST LINE OF SECTION 31; THENCE NORTH TO THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE NORTHEAST 1/4; THENCE EAST 460 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

**PARCEL 8:**

EASEMENT APPURTENANT TO AND FOR THE BENEFIT OF PARCEL 1 FOR DRIVEWAY PURPOSES OVER THE EAST 75 FEET OF THE FOLLOWING DESCRIBED LAND AND EASEMENT OVER, UPON AND UNDER A STRIP OF LAND OF SUFFICIENT WIDTH TO RECONSTRUCT, RENEW, MAINTAIN AND OPERATE AN EIGHT-INCH CAST IRON PIPE WATER MAIN EXTENDING NORTHERLY AND SOUTHERLY PARALLEL WITH AND A DISTANT OF 66 FEET FROM THE EAST LINE OF THE WEST FRACTIONAL HALF OF SAID SECTION 31 AS CONTAINED IN THE QUIT CLAIM DEEDS FROM CHICAGO AND NORTH WESTERN RAILWAY COMPANY, A WISCONSIN CORPORATION, TO WILLIAM R. SCHOLLE AND SARAH R. SCHOLLE, HIS WIFE, DATED JANUARY 2, 1953 AND JANUARY 12, 1953 AND RECORDED FEBRUARY 24, 1953 AS DOCUMENT NUMBERS 15552236 AND 15552237 AND IN THE AFFIDAVIT RECORDED AS DOCUMENT 16947034, THE CONTRACT CONCERNING EASEMENT RECORDED AS DOCUMENT 16947035 AND THE AGREEMENT FOR EASEMENT RECORDED AS DOCUMENT 16947036, OVER THE FOLLOWING DESCRIBED TRACT OF LAND:

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A TRACT OR PARCEL OF LAND IN THE WEST FRACTIONAL HALF OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT IN THE EAST LINE OF THE WEST FRACTIONAL HALF OF SAID SECTION 31, DISTANT 300 FEET NORTH, AS MEASURED ALONG SAID EAST LINE OF THE WEST FRACTIONAL HALF OF SAID SECTION 31 FROM ITS INTERSECTION WITH THE NORTH LINE OF NORTH AVENUE, STATE BOND ISSUE ROUTE 64, AS NOW LOCATED AND ESTABLISHED, AND SHOWN ON PLAT OF DEDICATION RECORDED AS DOCUMENT NUMBER 10298762 IN BOOK 272 OF PLATS ON PAGES 22 AND 23 IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS; THENCE NORTH ALONG THE EAST LINE OF THE WEST FRACTIONAL HALF OF SAID SECTION 31, A DISTANCE OF 600 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 451.92 FEET TO A POINT DISTANT 100 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES FROM THE CENTER LINE OF THE MOST EASTERLY MAIN TRACK OF THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTHWESTERLY PARALLEL WITH THE CENTER LINE OF SAID MAIN TRACK, TO A POINT DISTANT 510.37 FEET WEST, AS MEASURED ALONG A LINE PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, FROM THE POINT OF BEGINNING; THENCE EAST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 510.37 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

ALSO

THE EASTERLY 75 FEET OF THE WEST FRACTIONAL HALF OF AFORESAID SECTION 31, LYING SOUTH OF THE SOUTH LINE OF THE PROPERTY ABOVE DESCRIBED AND NORTH OF THE NORTH LINE OF NORTH AVENUE.

PARCEL 9:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT FOR EASEMENT FROM IMPERIAL FLOORING AND WATERPROOFING COMPANY, AN ILLINOIS CORPORATION, TO AUTOMATIC ELECTRIC COMPANY, A DELAWARE CORPORATION, DATED JANUARY 3, 1957 AND RECORDED MAY 17, 1957 AS DOCUMENT 16906687 FOR PASSAGEWAY OVER THE FOLLOWING DESCRIBED LAND:

THAT PART OF THE EASTERLY 75 FEET OF A TRACT OR PARCEL OF LAND IN THE WEST FRACTIONAL 1/2 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO-WIT:



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BEGINNING AT A POINT IN THE EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, DISTANT 900 FEET NORTH, AS MEASURED ALONG SAID EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, FROM ITS INTERSECTION WITH THE NORTH LINE OF NORTH AVENUE, STATE BOND ISSUE ROUTE 64, AS NOW LOCATED AND ESTABLISHED, AND SHOWN ON PLAT OF DEDICATION RECORDED AS DOCUMENT NO. 10298762 IN BOOK 272 OF PLATS ON PAGES 22 AND 23 IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS; THENCE NORTH ALONG THE EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, A DISTANCE OF 384 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 414.50 FEET TO A POINT DISTANT 100 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTER LINE OF THE MOST EASTERLY MAIN TRACT OF THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTHWESTERLY PARALLEL WITH THE CENTER LINE OF SAID MAIN TRACK, TO A POINT DISTANT 451.92 FEET WEST, AS MEASURED ALONG A LINE PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, FROM THE POINT OF BEGINNING; THENCE EAST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 451.92 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

## PARCEL 10:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT FOR EASEMENT FROM S. N. NIELSEN COMPANY, AN ILLINOIS CORPORATION, TO AUTOMATIC ELECTRIC COMPANY, A DELAWARE CORPORATION, DATED JANUARY 3, 1957 AND RECORDED MAY 17, 1957 AS DOCUMENT 16906688 FOR PASSAGEWAY OVER THE FOLLOWING DESCRIBED LAND

THAT PART OF THE EASTERLY 75 FEET OF A TRACT OR PARCEL OF LAND IN THE WEST FRACTIONAL 1/2 OF SECTION 31, TOWNSHIP 46 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT ON THE EAST LINE OF THE WEST FRACTIONAL HALF OF SAID SECTION 31, DISTANT 1500 FEET NORTH, AS MEASURED ALONG SAID EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, FROM ITS INTERSECTION WITH THE NORTH LINE OF NORTH AVENUE (STATE BOND ISSUE ROUTE 64) AS NOW LOCATED AND ESTABLISHED, AND SHOWN ON PLAT OF DEDICATION, RECORDED AS DOCUMENT NO. 10298762, IN BOOK 272 OF PLATS ON PAGES 22 AND 23, IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS; THENCE NORTH ALONG THE EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, A DISTANCE OF 600 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE A DISTANCE OF 320 FEET; MORE OR LESS, TO A POINT DISTANT, 100 FEET SOUTHEASTERLY, MEASURED AT RIGHT ANGLES, FROM THE CENTER LINE OF THE MOST EASTERLY

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MAIN TRACK, OF THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTHEASTERLY, PARALLEL WITH THE CENTER LINE OF SAID MAIN TRACK, TO A POINT DISTANT 393.47 FEET WEST, AS MEASURED ALONG A LINE PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, FROM THE POINT OF BEGINNING; THENCE EAST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 393.47 FEET, TO THE POINT OF BEGINNING.

AND ALSO

A TRACT OR PARCEL OF LAND IN THE WEST FRACTIONAL 1/2 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, MORE PARTICULARLY BOUNDED AND DESCRIBED AS FOLLOWS, TO-WIT:

BEGINNING AT A POINT IN THE EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, DISTANT 1284 FEET, NORTH AS MEASURED ALONG SUCH EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31 FROM ITS INTERSECTION WITH THE NORTH LINE OF NORTH AVENUE (STATE BOND ISSUE ROUTE 64) AS NOW LOCATED AND ESTABLISHED AND SHOWN ON PLAT OF DEDICATION RECORDED AS DOCUMENT 10298762 IN BOOK 272 OF PLATS ON PAGES 22 AND 23 IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS; THENCE NORTH ALONG THE EAST LINE OF THE WEST FRACTIONAL 1/2 OF SAID SECTION 31, A DISTANCE OF 216 FEET; THENCE WEST PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE, A DISTANCE OF 393.47 FEET TO A POINT DISTANT 100 FEET SOUTHEASTERLY (MEASURED AT RIGHT ANGLES) FROM THE CENTER LINE OF THE MOST EASTERLY MAIN TRACK OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY, AS NOW LOCATED AND ESTABLISHED; THENCE SOUTHWESTERLY PARALLEL WITH THE CENTER LINE OF SAID MAIN TRACK TO THE POINT OF INTERSECTION WITH A LINE WHICH INTERSECTS THE PLACE OF BEGINNING AND IS PARALLEL TO THE NORTH LINE OF SAID NORTH AVENUE, THENCE EAST ALONG SAID LINE WHICH IS PARALLEL WITH THE SAID NORTH LINE OF NORTH AVENUE TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 11:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AGREEMENT FOR EASEMENT FROM CHICAGO AND NORTHWESTERN RAILWAY COMPANY, A WISCONSIN CORPORATION, TO AUTOMATIC ELECTRIC COMPANY, A DELAWARE CORPORATION, DATED MARCH 26, 1957 AND RECORDED MAY 17, 1957 AS DOCUMENT 16906686 FOR PASSAGEWAY OVER THE FOLLOWING DESCRIBED LAND:

THAT PART OF THE EASTERLY 75 FEET OF THE WEST FRACTIONAL 1/2 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL

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MERIDIAN, WHICH LIES BETWEEN TWO LINES DRAWN PARALLEL WITH AND DISTANT 2,200 FEET AND 3,330 FEET, RESPECTIVELY, NORTHERLY FROM THE SOUTH LINE OF SAID SECTION 31, EXCEPTING THEREFROM, HOWEVER, SO MUCH OF THE AFORESAID EASTERLY 75 FEET OF THE WEST FRACTIONAL 1/2 OF SECTION 31 WHICH LIES NORTHWESTERLY OF A LINE DRAWN PARALLEL WITH AND DISTANT 50 FEET SOUTHEASTERLY FROM THE MOST EASTERLY MAIN TRACK OF SAID RAILWAY COMPANY, AS SAID MAIN TRACK IS NOW LOCATED AND ESTABLISHED. THE SOUTHERLY BOUNDARY OF THE ABOVE DESCRIBED PARCEL OF LAND BEING A PART OF THE NORTHERLY BOUNDARY LINE OF THAT CERTAIN PARCEL OF LAND CONVEYED BY QUIT-CLAIM DEED DATED APRIL 25, 1955 TO S. N. NIELSEN COMPANY BY THE CHICAGO AND NORTH WESTERN RAILWAY COMPANY.

PARCEL 12:

TWO 33 FOOT EASEMENTS CREATED BY DOCUMENT 14463284 RECORDED DECEMBER 16, 1948 FOR THE BENEFIT OF PARCEL 1 CONNECTING INSURED PARCEL TO WOLF ROAD AND EXCEPTING THEREFROM ANY PART OF EASEMENT FALLING WITHIN PARCEL 1 AFORESAID.

Common Address: 505 Railroad Avenue, Northlake, Illinois

1231200023+025

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## EXHIBIT "B"

### PERMITTED EXCEPTIONS

1. Real estate taxes for the second installment of 2009 and subsequent years.
2. Easement in favor of Commonwealth Edison Company, and its/their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the grant recorded/filed as Document No. 16865896, also shown on plat of subdivision of the first subdivision recorded as Document 26094902, and also as shown on Plat of Northlake Business Park recorded July 11, 2001 as Document 0010613545.
3. Easement for public utilities as shown on the Plat of Subdivision recorded as Document 26094902 over the north 50 feet of Lot 1.
4. Easement in favor of Illinois Bell Telephone Company and Commonwealth Edison Company, Northern Illinois Gas Company, and its/their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the Real Estate and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the Plat recorded/filed as Document No. 26094902, also as shown on the Plat of Northlake Business Park Subdivision recorded July 11, 2001 as Document 001613545 affecting the north 50 feet of Lot 1.
5. Rights of way for railroad switch and spur tracks, as depicted on the Plat of Survey by Gremley & Biedermann dated December 18, 2008, Number 2008-12151-001 and revised June 3, 2009, Order Number 2009-12641.
6. Encroachment of the 1-story frame building on the Real Estate over and onto the easement to Commonwealth Edison Company on the west 113 feet of the Real Estate, as set forth below as shown on Survey by Gremley & Biedermann dated December 30, 2008, Number 2008-12151-001 and revised June 3, 2009, Order Number 2009-12641.
7. Terms, provisions and conditions of the Access and Signage Easement Agreement made by and between Centerpoint Realty Services Corporation, an Illinois corporation, Unibus Corporation, an Illinois corporation and Centerpoint Properties Trust, a Maryland real estate investment trust, granting a non-exclusive perpetual easement for vehicular access over, upon and across the portion of Lot 1 as shown in Exhibit "E" recorded July 11, 2001 as Document 0010614059 and as amended by Document 0810022023 also as shown on the Plat of Northlake Business Park Subdivision recorded July 11, 2001 as Document 0010613545.

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8. Building line(s) as shown on the Plat of Subdivision recorded as Document No. 0010613545, affecting the north and south 50 feet, west 25 feet (excepting the north and south 50 of the west 25 feet), the east 25 feet (excepting the north and south 50 feet) of the Real Estate.
9. Reciprocal Ingress and Egress Easement reserved in the Final Plat of Subdivision of Northlake Business Park recorded July 11, 2001 as Document 0010613545 for the owners of Lots 1 and 2 in aforesaid Subdivision and the City of Northlake, their heirs, successors and assigns over all platted and designated ingress and egress easement areas as shown on aforesaid Plat.
10. Municipal Purposes Easement reserved in the Final Plat of Subdivision of Northlake Business Park recorded July 11, 2001 as Document 0010613545 in favor of the City of Northlake for utilities, public works, working yard and other municipal purposes over the east 10.5 feet of Lot 3.
11. Utility Easement Agreement and Option for Stormwater Management Easement recorded July 11, 2001 as Document 0010614060 for the owner of Lot 1 and for the owner of the lot as granted in aforesaid document and as depicted on Exhibits "D", "E", "F", "G", "J" and "K", and the terms, provisions and conditions set forth therein.  
  
First amendment recorded November 27, 2001 as document 0011110644.
12. Easement in favor of Nicor Gas, and its/their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto contained in the Grant recorded/filed as Document No. 0316722012, affecting the 10-foot strip lying 5 feet on either side of the center of Grantee's facilities as installed within that part of the south 85.5 feet of Lot 1 a 10-foot strip lying 5 feet on either side of the center of Grantee's facilities as installed within that part of the south 85.5 feet of lot 3 of the Real Estate.
13. (a) Terms, provisions and conditions relating to the Easement described as Parcels 5, 6, 7, 8, 9, 10, 11 and 12 contained in the instrument creating said Easement.  
  
(b) Rights of the adjoining owner or owners to the concurrent use of said Easement.
14. Garden areas are depicted along the north line of the Real Estate, which appear to be maintained by the owners of the property north of and adjacent to Fullerton Avenue, as disclosed by the Plat of Survey by Gremley & Biedermann dated December 18, 2008 and revised June 3, 2009, Order Number 2009-12641.