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1064

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1134104057 Fee: \$100.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 12/07/2011 10:39 AM Pg: 1 of 33

Report Mortgage Fraud
800-532-8785

8866182 DZ MS

The property identified as: PIN: 17-21-323-005-0000

Address:

Street: 2040 SOUTH JEFFERSON STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60616

Lender: WANXIANG AMERICA CORPORATION

Borrower: RENAISSANCE 21 VENTURE, L.L.C.

Loan / Mortgage Amount: \$6,150,000.00

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

Certificate number: 0A1410AF-EF66-4D7B-B1FB-D6A972103805

Execution date: 11/23/2011

S Y
P 33
S N
SC Y
INT 7

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Document prepared by and
when recorded mail to:

Randal Selig
Selig Jindal LLP
1622 Willow Road, #206
Northfield, IL 60093

MS

D2

8866182

ABOVE SPACE FOR RECORDER'S USE ONLY

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, AND SECURITY AGREEMENT

THIS MORTGAGE is made as of the 23rd day of November, 2011, by **RENAISSANCE 21 VENTURE, L.L.C.**, an Illinois limited liability company, whose address is 500 West 18th Street, Suite 200, Chicago, IL 60616 ("Mortgagor"), in favor of **WANXIANG AMERICA CORPORATION**, a Kentucky corporation ("Lender").

A. Lender has agreed to make a loan ("Loan") to Mortgagor, which loan is evidenced by that certain Mortgage Note dated as of even date hereof in the original principal amount of \$6,150,000.00, as may be amended or restated from time to time ("Note").

B. TO SECURE to Lender the repayment of the indebtedness evidenced by the Note, with interest thereon; the payment of all charges provided herein and all other sums, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage; and the performance of the covenants and agreements contained herein and in the Note and all future advances and all other indebtedness of Mortgagor to Lender whether now or hereafter existing (collectively, the "Secured Indebtedness") and also in consideration of Ten Dollars (\$10.00), the receipt and sufficiency of which are hereby acknowledged, Mortgagor does hereby convey, grant, mortgage and warrant to Lender and its successors and assigns, forever, in all and singular with MORTGAGE COVENANTS, the real estate ("Real Estate") located in the County of Cook, State of Illinois, consisting of approximately 5.5 acres located at 21st and Jefferson Streets in Chicago, Illinois, and legally described on Exhibit A attached hereto, subject only to covenants, conditions, easements and restrictions set forth on Exhibit B, if any ("Permitted Encumbrances").

C. TOGETHER WITH all buildings, structures, improvements, tenements, fixtures, easements, mineral, oil and gas rights, water rights, appurtenances thereunto belonging, title or reversion in any parcels, strips, streets, and alleys adjoining the Real Estate, any land or vaults lying within any street, thoroughfare, or alley adjoining the Real Estate, and any privileges, licenses, and franchises pertaining thereunto, all of the foregoing now or hereafter acquired, all leasehold estates and all rents, issues, and profits thereof, for so long and during all such times as Mortgagor, its successors and assigns may be entitled thereto, all the estate, interest, right,

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title, or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to: (i) proceeds of insurance in effect with respect to the Property (as hereinafter defined) and (ii) any and all awards, claims for damages, settlements, and other compensation made for or consequent upon the taking by condemnation, eminent domain, or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (which are pledged primarily and on a parity with the Real Estate and not secondarily), and all apparatus, equipment, or articles now or hereafter located thereon used to supply heat, gas, air conditioning, water, light, power, refrigeration (whether single units or centrally controlled), and ventilation, and any other apparatus, equipment, or articles used or useful in the operation of the Property including all additions, substitutions, and replacements thereof. All of the foregoing are declared to be a part of the Real Estate whether physically attached or not, and it is agreed that all similar apparatus, equipment, articles, and fixtures hereafter placed on the Real Estate by Mortgagor or its successors or assigns shall be considered as constituting part of the Real Estate. (All of the foregoing, together with the Real Estate are hereinafter referred to as the "Property.") To have and to hold the Property unto Lender, its successors and assigns forever, for the purposes and uses set forth herein, free from all rights and benefits under any Homestead Exemption laws of the state in which the Property is located, which rights and benefits Mortgagor does hereby expressly release and waive. Mortgagor and Lender covenant and agree as follows:

1. **Payment of Principal and Interest.** Mortgagor shall promptly pay or cause to be paid when due all Secured Indebtedness. Interest shall accrue on so much of the Loan as is disbursed or advanced from time to time to, or for the benefit of, Mortgagor at the Interest Rate set forth in the Note, commencing and continuing on the dates set forth in the Loan Documents until the Loan is fully repaid. Interest on all funds shall accrue at the Default Interest Rate subsequent to the occurrence of a Default. Mortgagor agrees to pay to Lender all amounts due under the Note when due.

2. **Payment of Taxes.** Mortgagor must pay all general and special real estate and property taxes and assessments on the Property when due. Mortgagor will, upon written request, furnish to Lender duplicate receipts therefor within 30 days following the date of payment. Mortgagor must pay in full "under protest" any tax or assessment which Mortgagor may desire to contest, in the manner provided by law.

2.1 **Tax Deposits.** Upon the event of a default, Mortgagor will, at the option of Lender, deposit with Lender commencing on the first day of each month thereafter and continuing on the first day of each month thereafter, a sum equal to all real estate taxes and assessments (general and special) next due upon or for the Property (the amount of such taxes next due to be based upon Lender's reasonable estimate as to the amount of taxes and assessments to be levied and assessed) reduced by the amount, if any, then on deposit with Lender divided by the number of months to elapse before 1 month prior to the date when such taxes and assessments will become due and payable. Such deposits are to be held without any allowance for interest to Mortgagor and are to be used for the payment of taxes and assessments (general and special) on the Property next due and payable when they become due. If the deposited funds are insufficient to pay any such taxes or assessments (general or special) when

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the same become due and payable, Mortgagor must, within ten (10) days after demand therefore from Lender, deposit such additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess will be applied to a subsequent deposit or deposits. The deposits need not be kept separate and apart from any other funds of Lender.

3. **Application of Payments.** All payments received by Lender under this Mortgage, the Note, and all other documents given to Lender to further evidence, secure, or guarantee the Secured Indebtedness (collectively, as amended, modified, extended, or renewed, the "Loan Documents") will be applied by Lender first to payments required from Mortgagor to Lender under Paragraph 2, then to any sums advanced by Lender pursuant to Paragraph 8 to protect the security of this Mortgage, then to interest payable on the Note which may be due, as Lender may determine in its sole discretion, and then to principal payable on the Note (and if principal is due in installments, application shall be to such installments in the inverse order of their maturity), as Lender may determine in its sole discretion. Any applications to principal of proceeds from insurance policies, as provided in Paragraph 6, or of condemnation awards, as provided in Paragraph 10, will not extend or postpone the due date of any monthly installments of principal or interest, or change the amount of such installments or of the other charges or payments provided in the Note or other Loan Documents.

4. **Permitted Encumbrances.** Except for the Permitted Encumbrances, Mortgagor may not, without the prior written consent of Lender, incur any additional indebtedness or create or permit to be created or to remain, any mortgage, pledge, lien, lease, hypothecation, encumbrance, or charge on, or conditional sale or other title retention agreement, with respect to the Property or any part thereof or income therefrom, other than the other Loan Documents and the Permitted Encumbrances.

5. **Mechanics' Liens; Other Liens.** Mortgagor will not suffer or permit any mechanics' lien claims to be filed or otherwise asserted against the Property, and will promptly discharge the same if any claims for lien or any proceedings for the enforcement thereof are filed or commenced. Except for the Permitted Encumbrances, Mortgagor will not cause, create, suffer, or otherwise permit to exist, any lien security interest, or other encumbrance against the Property or the other Collateral (as hereinafter defined).

6. **Insurance.**

6.1 **Definitions.** For purposes of this Paragraph 6:

"Premises" means all land, improvements and fixtures.

"Real Estate" means only the land.

6.2 **Requirements.** Mortgagor, at its sole cost and expense, shall insure and keep insured the Premises against such perils and hazards, and in such amounts and with such limits, as Lender may from time to time reasonably require, and, in any event, including but not limited to:

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(a) Insurance of the Premises against loss or damage by fire or other casualty on an "all-risk" form, including demolition and increased cost of construction, debris removal, and pollution clean-up in the full replacement cost of the Premises (including increased cost of law and ordinance coverage), without deduction for foundations and footings (and without co-insurance).

(b) Insurance against loss or damage by flood or mudslide in compliance with the Flood Disaster Protection Act of 1973, as amended from time to time, if the Premises are situated in an area designated as a special flood hazard area, in amounts equal to the full replacement value of the Premises.

(c) Insurance on the Premises against loss or damage from an accident to and/or caused by boilers and machinery, including but not limited to: heating apparatus, pressure vessels, pressure pipes, electrical or air conditioning equipment on a blanket comprehensive coverage form, in such amount as Mortgagor shall deem advisable and as reasonably approved by Lender. Additional provisions providing coverage for removal of contaminated equipment and/or hazardous or toxic substances contained within such equipment to approved disposal sites shall be considered and obtained if required by Lender.

(d) Commercial general liability insurance covering Mortgagor's ownership of and operations at the Premises including personal injury; employee benefits liability; products and completed operations liability; blanket contractual liability; advertising liability; automobile liability including owned, non-owned, or hired vehicles; and having a limit of not less than \$2,000,000.00 on a per occurrence basis.

(e) At all times when renovations are occurring at the Premises, Contractor's Liability Insurance to a limit of not less than \$2,000,000.00 on a per occurrence basis covering the contractor's construction operations at the Premises with Mortgagor and Lender as additional insureds.

(f) Such other insurance as may be reasonably requested by Lender.

6.3 Policy Requirements. All insurance must:

(a) be carried in companies with a Best's rating of AAA or better, or otherwise reasonably acceptable to Lender;

(b) in form and content be acceptable to Lender;

(c) provide thirty (30) days' advance written notice to Lender before any cancellation, adverse material modification, or notice of non-renewal;

(d) to the extent limits are not otherwise specified herein, contain deductibles which are in amounts reasonably acceptable to Lender; and

(e) provide that no claims in excess of \$10,000.00 will be paid thereunder without ten (10) days advance written notice to Lender.

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All physical damage policies and renewals shall contain a standard mortgage clause naming Lender as mortgagee, which clause must expressly state that any breach of any condition or warranty by Mortgagor will not prejudice the rights of Lender under such insurance; and a loss payable clause in favor of Lender for personal property, contents, inventory, equipment, loss of rents, and business interruption. All liability policies and renewals shall name Lender as an additional insured. No additional parties may appear in the mortgage or loss payable clause without Lender's prior written consent, which consent shall not be unreasonably withheld. All deductibles shall be in amounts reasonably acceptable to Lender. In the event of the foreclosure of this Mortgage or any other transfer of title to the Premises in full or partial satisfaction of the Secured Indebtedness, all right, title and interest of Mortgagor in and to all insurance policies and renewals thereof then in force will pass to the purchaser or grantee.

6.4 Delivery of Policies. Any notice pertaining to insurance and required pursuant to this Paragraph 6 must be given in the manner provided in Paragraph 15. The insurance must be evidenced by evidence of insurance delivered herewith and by the original policy or a true and certified copy of the original policy delivered to Lender within 60 days of the date hereof, or in the case of liability insurance, by evidence of insurance on an Acord 27 form. Mortgagor shall deliver originals of all policies and renewals, marked "paid", (or evidence satisfactory to Lender of the continuing coverage) to Lender at least thirty (30) days before the expiration of existing policies and, in any event, Mortgagor will deliver originals of such policies or certificates to Lender at least fifteen (15) days before the expiration of existing policies. If Lender has not received reasonably satisfactory evidence of such renewal or substitute insurance in the time frame herein specified, Lender will have the right, but not the obligation, to purchase such insurance for Lender's interest only. Any amounts so disbursed by Lender pursuant to this Paragraph will be a part of the Secured Indebtedness and will bear interest at the default interest rate provided in the Note ("Default Rate"). Nothing contained in this Paragraph 6 will require Lender to incur any expense or take any action hereunder, and inaction by Lender will never be considered a waiver of any right accruing to Lender on account of this Paragraph 6.

6.5 Separate Insurance. Mortgagor may not carry any separate insurance on the Premises concurrent in kind or form with any insurance required hereunder or contributing in the event of loss without Lender's prior written consent, and any policy must have attached standard non-contributing mortgagee clause, with loss payable to Lender, and must otherwise meet all other requirements set forth herein.

6.6 Compliance Certificate. Upon the event of a default by Mortgagor, at Lender's option and expense, but not more often than annually, Mortgagor will provide Lender with a report from an independent insurance consultant of regional or national prominence, acceptable to Lender, certifying that Mortgagor's insurance is in compliance with this Paragraph 6.

6.7 Notice of Casualty. Mortgagor shall give immediate notice of any loss to Lender. In case of loss covered by any policies, Lender is authorized to adjust, collect and compromise in its discretion, all claims thereunder and in such case, Mortgagor covenants to sign upon demand, or Lender may sign or endorse on Mortgagor's behalf, all necessary proofs

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of loss, receipts, releases and other papers required by the insurance companies to be signed by Mortgagor. Mortgagor hereby irrevocably appoints Lender as its attorney-in-fact for the purposes set forth in the preceding sentence. Lender may deduct from such insurance proceeds any expenses incurred by Lender in the collection and settlement thereof, including, but not limited to, reasonable attorneys' and adjusters' fees and charges.

6.8 Application of Proceeds. If all or any part of the Premises is damaged or destroyed by fire or other casualty or is damaged or taken through the exercise of the power of eminent domain or other cause described in Paragraph 10, Mortgagor will promptly and with all due diligence restore and repair the Premises if the insurance proceeds are tendered to Mortgagor by Lender. At Lender's election, to be exercised by written notice to Mortgagor within fifteen (15) days following Lender's unrestricted receipt in cash or the equivalent thereof of the net insurance proceeds of the policies required to be maintained by Mortgagor hereunder, award or other compensation (collectively, the "Proceeds"), the entire amount of the Proceeds will either be:

(a) applied to the Secured Indebtedness in the order and manner as Lender may elect (subject to the requirements of the Loan Documents); or

(b) made available to Mortgagor on the terms and conditions set forth in this Paragraph to finance the cost of restoration or repair. Lender may require that all plans and specifications for such restoration or repair be submitted to and approved by Lender in writing prior to commencement of the work.

6.8.1. If the amount of the Proceeds to be made available to Mortgagor pursuant to this Paragraph is less than the cost of the restoration or repair as estimated by Lender at any time prior to completion thereof, Mortgagor will cause to be deposited with Lender the amount of such deficiency within thirty (30) days of Lender's written request therefor (but in no event later than the commencement of the work) and Mortgagor's deposited funds shall be disbursed prior to the Proceeds. If Mortgagor is required to deposit funds under this Paragraph, the deposit of such funds is a condition precedent to Lender's obligation to disburse the Proceeds held by Lender hereunder and in the event Mortgagor fails to deposit such deficiency within said thirty (30) days, Lender may apply the Proceeds to the Secured Indebtedness. The amount of the Proceeds which is to be made available to Mortgagor, together with any deposits made by Mortgagor, will be held by Lender to be disbursed from time to time to pay the cost of repair or restoration, at Lender's option, to Mortgagor or directly to contractors, subcontractors, material suppliers and other persons entitled to payment in accordance with and subject to the conditions to disbursement as Lender may impose to assure that the work is fully completed in a good and workmanlike manner and paid for and that no liens or claims arise by reason thereof.

6.8.2 Lender may require (a) evidence of the estimated cost of completion of the restoration or repair reasonably satisfactory to Lender and (b) architect's certificates, waivers of lien, contractors' sworn statements, title insurance endorsements, plats of survey, and other evidence of cost, payment and performance reasonably acceptable to Lender. If Lender requires mechanics' and materialmen's lien waivers in advance of making disbursements, such waivers will be deposited with an escrow trustee acceptable to Lender

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pursuant to a construction loan escrow agreement satisfactory to Lender. No payment made prior to final completion of the repair or restoration may exceed ninety percent (90%) of the value of the work performed from time to time. Lender may commingle any of the funds held by it with its other general funds. Lender is not obligated to pay interest in respect of the funds held by it, and Mortgagor is not entitled to a credit against any of the Secured Indebtedness except and to the extent the funds are applied thereto pursuant to this Paragraph. Without limitation of the foregoing, Lender has the right at all times to apply the funds to cure an Event of Default or to perform any obligations of Mortgagor under the Loan Documents.

6.9 Insurance Deposits. Upon the occurrence of an Event of Default, for the purpose of providing funds with which to pay premiums when due on all policies of liability, fire and other hazard insurance covering the Premises, Mortgagor will deposit with Lender on the first day of each month a sum equal to Lender's estimate of the premiums that will next become due and payable on such policies reduced by the amount, if any, then on deposit with Lender divided by the number of months to elapse before one (1) month prior to the date when such premiums become due and payable. No interest may be allowed to Mortgagor on account of any deposit made hereunder and the deposit need not be kept separate and apart from any other funds of Lender.

6.10 Existing Insurance. Notwithstanding anything to the contrary in this Article VI, Lender agrees that the existing insurance maintained by Mortgagor is acceptable in form, amount, and carrier.

7. Use, Preservation and Maintenance of Property. Mortgagor will not commit waste or permit impairment or deterioration of the Property. Mortgagor will not allow, store, treat, or dispose of Hazardous Material (as defined in Paragraph 27), or permit the same to exist or be stored, treated, or disposed of, from or upon the Property, except as set forth on Exhibit "E". Mortgagor will promptly restore or rebuild any buildings or improvements now or hereafter on the Property which may become damaged or destroyed. Mortgagor will comply with all requirements of law or municipal ordinances with respect to the use, operation, and maintenance of the Property, including all environmental, health, and safety laws and regulations, and will make no material alterations in the Property, except as required by law, without the prior written consent of Lender, which consent shall not be unreasonably withheld. Mortgagor will not grant or permit any easements, licenses, covenants, or declarations of use against the Property without the prior written consent of Lender, which consent shall not be unreasonably withheld.

8. Protection of Lender's Security. If Mortgagor fails to perform any of the covenants and agreements contained in this Mortgage, the Note, or the other Loan Documents, or if any action or proceeding is threatened or commenced which materially affects Lender's interest in the Property, then Lender, at Lender's option, upon notice to Mortgagor, may make such appearances, disburse such sums, including reasonable attorneys' fees, and take such action as it reasonably deems expedient or necessary to protect Lender's interest, including: (a) making repairs; (b) paying, settling, or discharging tax liens, mechanics', or other liens, (c) procuring insurance; and (d) renting, operating, and managing the Property and paying operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Property shall be operational and usable for its intended

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purposes. Lender, in making such payments, may do so in accordance with any bill, statement, or estimate procured from the appropriate public office without inquiry into the accuracy of same or into the validity thereof.

8.1. Amounts Disbursed. Any amounts disbursed by Lender pursuant to this Paragraph 8 will be part of the Secured Indebtedness and will bear interest at the Default Rate. Nothing contained in this Paragraph 8 will require Lender to incur any expense or take any action hereunder, and inaction by Lender will never be considered a waiver of any right accruing to Lender.

9. Inspection of Property and Books and Records. Mortgagor will permit Lender and its representatives and agents to inspect the Property from time to time during normal business hours and as frequently as Lender requests, provided Lender uses commercially reasonable efforts not to interfere with business activities conducted at the Property. Mortgagor must keep and maintain full and correct books and records showing in detail the income and expenses of the Property. From time to time and upon reasonable notice, Mortgagor will permit Lender or its agents to examine and copy such books and records at its offices or at the address identified above. Provided Mortgagor is not in default under the terms of this Mortgage or any of the Loan Documents, Lender will maintain the confidentiality of the information so obtained, except that Lender may disclose the information hereof to its employees, consultants, attorneys, investors, consultants, or advisors or as required by law or as required by an audit or other regulatory requirements, or to other third parties to enforce its rights hereunder or under any of the Loan Documents.

10. Condemnation. The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and must be paid directly to Lender. Mortgagor hereby grants a security interest to Lender in and to such proceeds. Lender is authorized to collect such proceeds and, at Lender's sole option and discretion, to apply said proceeds either to restoration or repair of the Property or in payment of the Secured Indebtedness. If the Property is restored, Lender may pay the condemnation proceeds in accordance with its customary loan payment procedures.

11. Mortgagor Not Released; Forbearance by Lender Not a Waiver; Remedies Cumulative. Extension or other modification granted by Lender to any successor in interest of Mortgagor of the time for payment of all or any part of the Secured Indebtedness will not operate to release, in any manner, the liability of Mortgagor. Any forbearance or inaction by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, will not be a waiver of or preclude the exercise of any such right or remedy. Any acts performed by Lender to protect the security of this Mortgage, as authorized by Paragraph 8 or otherwise, will not be a waiver of Lender's right to accelerate the maturity of the Secured Indebtedness. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage or afforded by law or equity, and may be exercised concurrently, independently or successively. No consent or waiver by Lender to or of any breach or default by Mortgagor will be deemed a consent or waiver to or of any other breach or default.

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With a copy to: Philip Wong
70 West Madison Street, #1500
Chicago, IL 60602
Facsimile Number: 312-263-0939

16. Governing Law; Venue; Invalidity of Certain Provisions.

(a) The validity, enforcement, and interpretation of this Mortgage will be governed by and construed in accordance with the laws of the State of Illinois, without reference to the conflicts of law principles and applicable United States federal law, and this Mortgage is intended to be performed in accordance with, and only to the extent permitted by, such laws. Mortgagor hereby irrevocably submits generally and unconditionally to the exclusive jurisdiction of any local court, or any United States federal court, sitting in the State of Illinois over any suit, action or proceeding arising out of or relating to this Mortgage. Mortgagor hereby irrevocably waives, to the fullest extent permitted by law, any objection that Mortgagor may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Nothing herein will affect the right of Lender to serve process in any manner permitted by law or limit the right of Lender to bring proceedings against Mortgagor in any other court or jurisdiction. This Mortgage will be construed and enforced according to the laws of the State of Illinois.

(b) The whole or partial invalidity, illegality, or unenforceability of any provision hereof at any time, whether under the terms of then applicable law or otherwise, shall not affect (i) in the case of partial invalidity, illegality, or unenforceability, the validity, legality or enforceability of the provision at that time except to the extent of the partial invalidity, illegality or unenforceability; or (ii) the validity, legality, or enforceability of the provision at any other time or of any other provision hereof at that or any other time.

17. Prohibitions on Transfer of the Property or of an Interest in Trust. It is an Event of Default (as hereinafter defined) if Mortgagor creates, effects, consents to, suffers, or permits any conveyance, sale (including an installment sale), assignment, transfer, lien, pledge, hypothecation, mortgage, security interest, or other encumbrance or alienation, whether by operation of law, voluntarily or otherwise, of the Property or any part of or interest to any party without the prior written consent of Lender, which consent may be withheld in Lender's sole and absolute discretion. Each of the foregoing is referred to as a "Prohibited Transfer." If Mortgage requests that Lender consent to a transfer of the Property to a related entity controlled and owned by Mortgagor, provided that Mortgagor is not in default hereunder or under the terms of any of the Loan Documents, Lender's consent shall not be unreasonably withheld.

18. Event of Default. Each of the following constitutes an event of default ("Event of Default") under this Mortgage:

(a) any amount payable on the Note is not paid within three (3) days after written notice of Borrower's failure to pay said amount, or on any other liability or obligation of Borrower to Lender, howsoever created, arising, or evidenced, and howsoever owned, held, or acquired, whether now or hereafter existing, whether now due or to become due, whether direct or indirect, or absolute or contingent, and whether several, joint or joint and several, including,

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without limitation any guaranty executed by Borrower for the benefit of Lender (all of which liabilities and obligations, including the Note, are hereinafter called the "Obligations") is not paid when due and such failure continues for three (3) days after written notice to Borrower of such failure;

(b) Mortgagor's failure to perform or observe any other covenant, agreement, representation, warranty, or other provision contained in the Note, this Mortgage (other than an Event of Default described elsewhere in this Paragraph 18) or the other Loan Documents, and such failure continues for more than 30 days following written notice thereof given by Lender to Mortgagor, unless the Event of Default is not capable of being cured within 30 days, Mortgagor commences to cure the Event of Default within said 30 days and thereafter Mortgagor diligently prosecutes the cure of the Event of Default, in which event Mortgagor will have additional time as is reasonably necessary, not to exceed 90 days, to cure the Event of Default; provided, however, that the 30-day cure period does not apply to the other subparagraphs of this Paragraph 18;

(c) the occurrence of a Prohibited Transfer;

(d) the entry by a court having jurisdiction of a decree or order for relief in respect of Mortgagor in any involuntary case brought under any bankruptcy, insolvency, debtor relief, or similar law; or if Mortgagor, or any person in control of Mortgagor: (i) files a voluntary petition in bankruptcy, insolvency, debtor relief or for arrangement, reorganization, or other relief under the Federal Bankruptcy Act or any similar state or federal law; (ii) consents to or suffers the appointment of or taking possession by a receiver, liquidator, or trustee (or similar official) of Mortgagor or for any part of the Property or any substantial part of Mortgagor's other property; (iii) makes any assignment for the benefit of Mortgagor's creditors; or (iv) fails generally to pay Mortgagor's debts as they become due;

(e) the attachment, seizure, or levy of all or a substantial part of Mortgagor's assets;

(f) the occurrence of a default under any of the Loan Documents which is not cured with any applicable cure period;

(g) any written warranty, representation, certificate, or statement of Borrower to Lender is untrue in any material respect;

(h) the failure to do any act necessary to preserve and maintain the value and collectability of the Collateral; or

(i) the failure of Borrower after request by Lender to furnish financial information or to permit inspection by Lender of Borrower's books and records.

19. Acceleration; Remedies. Upon the occurrence of an Event of Default, Lender may declare all sums secured by this Mortgage and the other Loan Documents to be immediately due and payable without further demand and may foreclose this Mortgage by judicial proceeding. Lender will be entitled to collect in such proceeding all expenses of foreclosure, including, but not limited to, reasonable attorneys' fees and costs including

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abstracts and title reports, all of which will become a part of the Secured Indebtedness and immediately due and payable, with interest at the Default Rate. The proceeds of any foreclosure sale of the Property will be applied first to all costs, expenses and fees incident to the foreclosure proceedings, then as set forth in Paragraph 3 of this Mortgage, and last, to Mortgagor.

20. Assignment of Leases and Rents. In order to further secure payment of the Secured Indebtedness and the observance, performance, and discharge of the Obligations, Mortgagor hereby absolutely and irrevocably assigns and transfers to Lender and grants Lender a security interest in all of Mortgagor's right, title, and interest in and to the Leases listed on Exhibit C and all present and future leases affecting the Property (collectively, "Leases") and all rents, income, receipts, revenues, issues, avails, and profits from or arising out of the Property (collectively, "Rents"), subject only to the Permitted Encumbrances. Mortgagor hereby appoints Lender its true and lawful attorney-in-fact, with the right, at Lender's option at any time, to demand, receive and enforce payment, to give receipts, releases, and satisfactions, and to sue, either in Mortgagor's or Lender's name, for all Rents. Notwithstanding the foregoing assignment of Leases and Rents, so long as no Event of Default has occurred which remains uncured, Mortgagor has license to collect Rents (such license to be deemed revoked upon the occurrence of an Event of Default) provided that the existence or exercise of such right of Mortgagor does not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any subsequent assignment by Mortgagor shall be subject to the rights of Lender hereunder. This assignment may not be deemed or construed to constitute Lender as a mortgagee in possession or obligate Lender to take any action or to incur expenses or perform or discharge any obligation, duty or liability. Exercise of any rights under this Paragraph and the application of the Rents to the Secured Indebtedness shall not cure or waive any Event of Default.

20.1 If Mortgagor, as lessor, neglects or refuses to perform and keep all of the covenants and agreements contained in the Leases, then Lender may perform and comply with any such Lease covenants and agreements. All related costs and expenses incurred by Lender will become a part of the Secured Indebtedness and will be due and payable upon demand by Lender with interest thereon accruing thereafter at the Default Rate.

21. Appointment of Receiver. Upon acceleration under Paragraph 17, 18, or 19 or abandonment of the Property, and without further notice to Mortgagor, Lender will be entitled to have a receiver appointed by a court to enter upon, take possession of, and manage the Property and to collect the Rents including those past due. The receiver will have the power to collect the Rents from the time of acceleration through the pendency of any foreclosure proceeding and during the full statutory period of redemption, if any. All Rents collected by the receiver will be applied as the appointing court may direct and, in the absence of such direction, first to payment of the costs and expenses of the management of the Property and collection of rents, including, but not limited to, receiver's fees, premiums on receiver's bonds, and reasonable attorneys' fees, and then as provided in Paragraph 3. The receiver will be liable to account only for those Rents actually received.

22. Release. Upon payment of all Secured Indebtedness, Lender will release this Mortgage. Mortgagor will be responsible for recording the release, including all related costs of

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recording. Mortgagor may sell any part of the Property only with the prior written consent of Lender, which consent Lender may withhold in its sole and absolute discretion. Lender shall have no obligation to release the Mortgage with respect to all or any part of the Property, except upon full payment of all Secured Indebtedness or except as Lender may consent in writing to release the Mortgage, which consent Lender may withhold in its sole and absolute discretion.

23. Security Agreement. Without limiting any other provisions of this Mortgage, this Mortgage constitutes a Security Agreement under the Illinois Uniform Commercial Code, 810 ILCS 5/1-101 et seq., as in effect from time to time (herein called the "Code") with respect to all fixtures, appliances, equipment, and furniture of every nature, and all replacements, substitutions, accessions, extensions, additions, improvements, betterments, and renewals to any of the foregoing, and all proceeds thereof, now or hereafter located on the Property as set forth in the description of the Property above (as those terms are defined in the Code), including but not limited to the air conditioning, heating, gas, water, power, light, and ventilation systems which are presently located at the Property, and with respect to all funds and other sums which may be deposited with Lender pursuant hereto (all for the purposes of this paragraph called "Collateral"), and Mortgagor hereby grants to Lender a security interest in the Collateral. All of the terms, provisions, conditions, and agreements contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Property. This Mortgage is a self-operative security agreement, but Mortgagor agrees to execute and deliver on demand security agreements, financing statements, control agreements, and other instruments as Lender may reasonably request in order to perfect its security interest or to impose the lien hereof more specifically upon any of such property and authorizes Lender to execute and file the same on behalf of Mortgagor. Lender will have all the rights and remedies in addition to those specified herein of a secured party under the Code. Any Code requirement for reasonable notice shall be met if such notice is delivered as provided herein at least 10 days prior to the time of any sale, disposition, or other event or matter giving rise to the notice (which period of time and method of notice are agreed to be commercially reasonable).

24. Collateral Protection Act. Pursuant to the requirements of the Illinois Collateral Protection Act, Mortgagor is hereby notified as follows:

Unless Mortgagor provides Lender with evidence of the insurance coverage required by this Mortgage or any of the other Loan Documents, Lender may purchase insurance at Mortgagor's expense to protect Lender's interest in the Property or any other collateral for the Secured Indebtedness. This insurance may, but need not protect Mortgagor's interests. The coverage Lender purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property or any other collateral for the Secured Indebtedness. Mortgagor may later cancel any insurance purchased by Lender but only after providing Lender with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Lender purchases insurance for the Property or any other collateral for the Secured Indebtedness, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges that Lender may lawfully 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 total outstanding indebtedness. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

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25. Additional Advances. This Mortgage is given to secure not only presently existing Secured Indebtedness under the Loan Documents, but also future advances, whether such advances are obligatory or to be made at the option of the Lender or otherwise, as are made within 20 years from the date hereof, to the same extent as if such future advances were made on the date of the execution of this Mortgage, although there may be no advance made at the time of execution of this Mortgage and although there may be no indebtedness secured hereby outstanding at the time any advance is made. The lien of this Mortgage will be valid as to the Secured Indebtedness, including future advances, from the time of its filing for record in the recorder's office of the county in which the Property is located. The total amount of indebtedness secured hereby may increase or decrease from time to time, but the total unpaid principal balance of indebtedness secured hereby (including disbursements that the Lender may, but is not obligated to, make under this Mortgage, the Loan Documents, or any other document with respect thereto) at any one time outstanding may be substantially less but shall not exceed the principal amount of the Note, plus interest thereon, and any disbursements made for payment of taxes, special assessments, or insurance on the Property and interest on such disbursements, and all disbursements by Lender pursuant to 735 ILCS 5/15-1302(b)(5) (all such Secured Indebtedness being hereinafter referred to as the maximum amount secured hereby). This Mortgage will be valid and have priority to the extent of the maximum amount secured hereby over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

26. Business Loan. Mortgagor hereby represents and warrants that:

(a) the proceeds of the Loan evidenced by the Note will be used for the purposes specified in 815 ILCS 205/4(1)(a) or (c) of the Illinois Compiled Statutes, as amended:

(b) the Loan constitutes a "business loan" within the purview of that Section;

(c) the Loan is a transaction exempt from the Truth in Lending Act, 15 U.S.C. 1601, et seq.; and

(d) the proceeds of the Secured Indebtedness will not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

27. Environmental Compliance.

27.1 Definitions. For purposes of this Paragraph:

(a) "Premises" means: The Real Estate including improvements presently and hereafter situated thereon or thereunder, construction material used in such improvements, surface and subsurface soil and water, areas leased to tenants, and all business, uses, and operations thereon.

(b) "Environmental Laws" means (i) any present or future federal statute, law, code, rule, regulation, ordinance, order, standard, permit, license, guidance document, or requirement (including consent decrees, judicial decisions, and administrative orders), together

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with all related amendments, implementing regulations, and reauthorizations, pertaining to the protection, preservation, conservation or regulation of the environment, including, but not limited to: the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 *et seq.* ("CERCLA"); the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.* ("RCRA"); the Toxic Substances Control Act, 15 U.S.C. Section 2601 *et seq.* ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 *et seq.*; and the Clean Water Act, 33 U.S.C. Section 1251 *et seq.*; and (ii) any present or future state or local statute, law, code, rule, regulation, ordinance, order, standard, permit, license, or requirement (including consent decrees, judicial decisions, and administrative orders), together with all related amendments, implementing regulations, and reauthorizations, pertaining to the protection, preservation, conservation, or regulation of the environment.

(c) "Hazardous Material" means (but shall not include materials and supplies stored and used in compliance with Environmental Laws):

- (i) "hazardous substances" as defined by CERCLA;
- (ii) "hazardous wastes", as defined by RCRA;
- (iii) "hazardous substances", as defined by the Clean Water Act;
- (iv) any item which is banned or otherwise regulated pursuant to TOSCA;
- (v) any item which is regulated by the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136 *et seq.*;
- (v) any item which triggers any thresholds regulated by or invoking any provision of the Emergency Planning and Community Right-To-Know Act, 42 U.S.C. 11001 *et seq.*;
- (vi) any hazardous, dangerous or toxic chemical, material, waste, pollutant, contaminant or substance ("pollutant") within the meaning of any Environmental Law prohibiting, limiting or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal, or recycling of such pollutant;
- (vii) any petroleum, crude oil, or fraction thereof;
- (viii) any radioactive material, including any source, special nuclear or byproduct material as defined at 42 U.S.C. Section 2011 *et seq.*, and amendments thereto and reauthorizations thereof;
- (ix) asbestos-containing materials in any form or condition; and
- (x) polychlorinated biphenyls ("PCBs") in any form or condition.

(d) "Environmental Actions" means:

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(i) any notice of violation, complaint, claim, citation, demand, inquiry, report, action, assertion of potential responsibility, lien, encumbrance, or proceeding regarding the Premises, whether formal or informal, absolute or contingent, matured or unmatured, brought or issued by any governmental unit, agency, or body, or any person or entity respecting: (a) Environmental Laws; (b) the environmental condition of the Premises, or any portion thereof, or any property near the Premises, including actual or alleged damage or injury to humans, public health, wildlife, biota, air, surface or subsurface soil or water, or other natural resources; or (c) the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal, or recycling of Hazardous Material either on the Premises or off-site;

(ii) any violation or claim of violation by Mortgagor of any Environmental Laws whether or not involving the Premises;

(iii) any lien for damages caused by, or the recovery of any costs incurred by any person or governmental entity for the investigation, remediation or cleanup of any release or threatened release of Hazardous Material; or

(iv) the destruction or loss of use of property, or the injury, illness, or death of any officer, director, employee, agent, representative, tenant, or invitee of Mortgagor or any other person alleged to be or possibly to be, arising from or caused by the environmental condition of the Premises or the release, emission, or discharge of Hazardous Materials from the Premises.

27.2 Representations and Warranties. Mortgagor hereby represents and warrants to Lender that:

(a) **Compliance.** To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry and except as described in Exhibit D hereto, the Premises and Mortgagor have been and are currently in compliance with all Environmental Laws. There have been, to the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no past, and there are no pending or threatened, Environmental Actions to which Mortgagor is a party or which relate to the Premises. All required governmental permits and licenses are in effect, and Mortgagor is in compliance therewith. Mortgagor has not received any notice of any Environmental Action respecting Mortgagor, the Premises, or any off-site facility to which has been sent any Hazardous Material for off-site treatment, recycling, reclamation, reuse, handling, storage, sale, or disposal.

(b) **Absence of Hazardous Material.** No use, exposure, release, emission, discharge, generation, manufacture, sale, handling, reuse, presence, storage, treatment, transport, recycling, or disposal of Hazardous Material has, to the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, occurred or is occurring on or from the Premises except in compliance with Environmental Laws and as described in Exhibit E hereto ("Disclosed Material"). The term "released" may include, but not be limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any Hazardous Material). To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, all Hazardous Material

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used, treated, stored, transported to or from, generated, or handled on the Premises has been disposed of on or off the Premises in a lawful manner. To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no environmental, public health, or safety hazards currently exist with respect to the Premises. To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry, no underground storage tanks (including but not limited to petroleum or heating oil storage tanks) are present on or under the Premises, or have been on or under the Property except as has been disclosed in writing to Lender ("Disclosed Tanks").

27.3 Mortgagor's Covenants. To the best of Mortgagor's knowledge based on all appropriate and thorough inquiry and except as described in Exhibit D hereto, Mortgagor hereby covenants and agrees with Lender as follows:

(a) **Compliance.** The Premises and Mortgagor comply with all Environmental Laws. All required governmental permits and licenses will be obtained and maintained, and Mortgagor will comply with them. All Hazardous Material on the Premises will be disposed of in a lawful manner without giving rise to liability under any Environmental Laws. Mortgagor will satisfy all requirements of applicable Environmental Laws for the registration, operation, maintenance, closure, and removal of all underground storage tanks on the Premises, if any. Without limiting the foregoing, all Hazardous Material will be handled in compliance with all applicable Environmental Laws.

(b) **Absence of Hazardous Material.** Other than Disclosed Material, no Hazardous Material will be introduced to or used, exposed, released, emitted, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of, or recycled on the Premises without 30 days' prior written notice to Lender.

(c) **Environmental Actions and Right to Consent.** Mortgagor will immediately notify Lender of all Environmental Actions and provide copies of all written notices, complaints, correspondence, and other documents relating thereto within 2 business days of receipt, and Mortgagor will keep Lender informed of all responses thereto. Mortgagor will promptly cure and have dismissed with prejudice all Environmental Actions in a manner reasonably satisfactory to Lender, and Mortgagor will keep the Premises free of any encumbrance arising from any judgment, liability, or lien imposed pursuant to any Environmental Actions. Notwithstanding the foregoing sentence, Mortgagor may, diligently, in good faith and by appropriate legal proceedings, contest such proceedings provided: (1) Mortgagor first furnishes to Lender such deposits or other collateral as Lender reasonably deems sufficient to fully protect Lender's interests; (2) such contest will have the effect of preventing any threatened or pending sale or forfeiture of all or any portion of the Premises or the loss or impairment of Lender's lien and security interests in and to the Premises; and (3) such contest will not cause Lender to incur any liability, in Lender's sole judgment. Mortgagor will permit Lender, at Lender's option, to appear in and to be represented in any such contest and will pay upon demand all expenses incurred by Lender in so doing, including reasonable attorneys' fees.

(d) **Future Environmental Audits.** Mortgagor will provide such information and certifications which Lender may reasonably request from time to time to

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monitor Mortgagor's compliance with this Article for the sole purpose of protecting Lender's security interest. To protect its security interest, Lender will have the right, but not the obligation, at any time upon reasonable prior notice and without unreasonable interference with any tenant's business, to enter upon the Premises, take samples, review Mortgagor's books and records, interview Mortgagor's employees and officers, and conduct such other activities as Lender, at its sole discretion, deems appropriate. Mortgagor will cooperate fully in the conduct of such an audit. If Lender decides to conduct such an audit because of: (1) an Environmental Action; (2) Lender's considering taking possession of or title to the Premises after an Event of Default by Mortgagor; (3) a material change in the use of the Premises, which in Lender's opinion, increases the risk to its security interest due to an Environmental Action; or (4) the introduction of Hazardous Material other than Disclosed Material to the Premises other than as permitted by this Mortgage; then Mortgagor will pay upon demand all costs and expenses connected with such audit, which, until paid, will become additional indebtedness secured by the Loan Documents and will bear interest at the Default Rate. Nothing in this Article may give or be construed as giving Lender the right to direct or control Mortgagor's actions in complying with Environmental Laws.

(e) **Event of Default and Opportunity to Cure.** If Mortgagor fails to comply with any of its covenants contained in this Section 27 within 30 days after notice by Lender to Mortgagor, Lender may, at its option, declare an Event of Default. If, however, the noncompliance cannot, in Lender's reasonable determination, be corrected within the 30-day period, and if Mortgagor has promptly commenced and diligently pursues action to cure such noncompliance to Lender's reasonable satisfaction, then Mortgagor will have such additional time as is reasonably necessary to correct such noncompliance, provided Mortgagor continues to diligently pursue corrective action, but in no event more than a total of 120 days after the initial notice of noncompliance by Lender.

(f) **Governmental Actions.** There are no pending or threatened: (1) actions or proceedings from any governmental agency or any other entity regarding the condition or use of the Property, or regarding any environmental, health or safety law; or (2) "superliens" or similar governmental actions or proceedings that could impair the value of the Property, or the priority of the lien of this Mortgage or any of the other Loan Documents (collectively "Environmental Proceedings"). Mortgagor will promptly notify Lender of any notices, or other knowledge obtained by Mortgagor hereafter of any pending or threatened Environmental Proceedings, and Mortgagor will promptly cure and have dismissed with prejudice any such Environmental Proceedings to the satisfaction of Lender.

(g) **Fees; Costs.** Any fees, costs, and expenses imposed upon or incurred by Lender on account of any breach of this Section 27 will be immediately due and payable by Mortgagor to Lender upon demand, and will (together with interest thereon at the Default Rate accruing from the date such fees, costs, and expenses are so imposed upon or incurred by Lender) become part of the Secured Indebtedness. Mortgagor will keep, save, protect, defend, indemnify, and hold harmless Lender from and against any and all claims, loss, cost, damage, liability, or expense, including reasonable attorneys' fees, sustained or incurred by Lender by reason of any Environmental Proceedings or the breach or default by Mortgagor of any representation, warranty, or covenant contained in this Paragraph.

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27.4 Lender's Right to Rely. Lender is entitled to rely upon Mortgagor's representations, warranties, and covenants contained in this Article despite any independent investigations by Lender or its consultants. Mortgagor will take all necessary actions to determine for itself, and to remain aware of, the environmental condition of the Premises. Mortgagor will have no right to rely upon any independent environmental investigations or findings made by Lender or its consultants unless otherwise stated in writing therein and agreed to in writing by Lender.

27.5 Indemnification. The term "Lender's Environmental Liability" will mean any and all losses, liabilities, obligations, penalties, claims, fines, lost profits, demands, litigation, defenses, costs, judgments, suits, proceedings, damages (including consequential, punitive and exemplary damages), disbursements, or expenses of any kind or nature whatsoever (including reasonable attorneys' fees at trial and appellate levels and experts' fees and disbursements and expenses incurred in investigating, defending against, settling, or prosecuting any suit, litigation, claim, or proceeding) which may at any time be either directly or indirectly imposed upon, incurred by, or asserted or awarded against Lender or any of Lender's parent and subsidiary corporations and their affiliates, shareholders, directors, officers, employees, and agents (collectively Lender's "Affiliates") in connection with or arising from:

- (a) any Hazardous Material used, exposed, emitted, released, discharged, generated, manufactured, sold, transported, handled, stored, treated, reused, presented, disposed of, or recycled on, in, or under all or any portion of the Premises, or any surrounding areas;
- (b) any misrepresentation, inaccuracy, or breach of any warranty, covenant, or agreement contained or referred to in this Section 27;
- (c) any violation, liability, or claim of violation or liability under any Environmental Laws;
- (d) the imposition of any lien for damages caused by, or the recovery of any costs incurred for the cleanup of, any release or threatened release of Hazardous Material; or
- (e) any Environmental Actions.

27.5.1 Mortgagor shall indemnify, defend (at trial and appellate levels and with counsel, experts, and consultants reasonably acceptable to Lender and at Mortgagor's sole cost) and hold harmless Lender and its Affiliates free and from and against Lender's Environmental Liability (collectively, "Mortgagor's Indemnification Obligations"). Mortgagor's Indemnification Obligations shall survive in perpetuity with respect to any Lender's Environmental Liability.

27.5.2 Mortgagor and its successors and assigns hereby waive, release, and agree not to make any claim or bring any cost recovery action against Lender under or with respect to any Environmental Laws unless the claim or action results from the gross negligence or willful misconduct of Lender. Mortgagor's obligation to Lender under this indemnity shall likewise be without regard to fault on the part of Mortgagor or Lender with respect to the

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violation or condition which results in liability to Lender unless the violation or condition results from the gross negligence or willful misconduct of Lender.

28. Compliance with Illinois Mortgage Foreclosure Law. If any provision in this Mortgage is inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq.) (the "Act"), the provisions of the Act will take precedence over the Mortgage provisions, but will not invalidate or render unenforceable any other Mortgage provision that can be construed in a manner consistent with the Act. If any Mortgage provision grants to Lender any rights or remedies upon Mortgagor's default which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of the provision, Lender will be vested with the rights granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Paragraph 19 of this Mortgage, will be added to the Secured Indebtedness secured by this Mortgage or by the judgment of foreclosure.

29. Interpretation. This Mortgage will be construed pursuant to the laws of the State of Illinois. The headings of sections and paragraphs in this Mortgage are for convenience only and may not be construed in any way to limit or define the content, scope, or intent of the provisions. The use of singular and plural nouns, and masculine, feminine, and neuter pronouns, is fully interchangeable, where the context so requires. If any provision of this Mortgage, or any paragraph, sentence, clause, phrase, or word, or the application thereof, in any circumstances, is adjudicated to be invalid, the validity of the remainder of this Mortgage will be construed as if such invalid part were never included. Time is of the essence of the payment and performance of this Mortgage. This Mortgage may be executed in counterparts which, when taken together, shall constitute a whole.

31. Waiver of Right of Redemption. To the full extent permitted by law, Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever 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, nor claim, take, or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to any 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. To the full extent permitted by law, Mortgagor hereby expressly waives any and all rights of redemption, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through, or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Mortgagor, and of all other persons, are and will be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Mortgagor agrees that it will not, by involving or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will suffer and permit the

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exercise of every such right, power, and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof will be subject to any defense which would not be good and valid in an action at law upon the Note.

32. **WAIVER OF JURY TRIAL.** TO THE EXTENT NOT PROHIBITED BY LAW, MORTGAGOR DOES HEREBY WAIVE ANY RIGHT TO A TRIAL JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS OF LENDER UNDER THIS MORTGAGE, THE NOTE, OR ANY OF THE LOAN DOCUMENTS, OR RELATING THERETO OR ARISING THEREFROM AND AGREE THAT ANY ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

[Signature Page Follows]

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EXHIBIT A

LEGAL DESCRIPTION

[See Attached]

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

Property of Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION

Parcel 1:

Lots 1, 2, 3, and 4 in the Subdivision of Lots 5 to 8, inclusive, in John B. Gest's Subdivision of that part North of 21st Street of Lot 4 in Block 38 in Canal Trustees' Subdivision of the West ½ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Lots 1, 2, 3, and 4 in John B. Gest's Subdivision of that part North of 21st Street of Lot 4 in Block 38 in Canal Trustees' Subdivision of the West ½ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois; also

Lots 19 to 22, 25 to 28, 31 to 34, 37 to 40, 43 to 46, 49 to 52, 55 to 58, and 61 to 64 and all of the North-South 14-foot vacated alley lying East of and adjoining Lots 19, 22, 25, 28, 31, 34, 37, 40, 43, 46, 49, 52, 55, 58, 61, and 64, and West of and adjoining Lots 20, 21, 26, 27, 32, 33, 38, 39, 44, 45, 50, 51, 56, 57, 62, and 63, all in the Subdivision of Lot 1 in Block 38 in Canal Trustees' Subdivision of the West ½ and so much of the South East ¼ as lies West of the South branch of the Chicago River of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

That part of Lot 4 in Block 38 in Canal Trustees' Subdivision of the West ½ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, described as follows:

Commencing on a point on the East line of said Lot 4 on the South line of 21st Street and running thence South on the West line of Jefferson Street, 140 feet; thence West parallel with the South line of 21st Street, 234 feet and 1 7/8 inches; thence North parallel with the West line of Jefferson Street, 140 feet to the South line of 21st Street; thence East to the point of beginning (except therefrom that part falling within the following described tract of land: That part of Lot 4 in Block 38 in Canal Trustee's Subdivision of the West ½ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, described as follows: beginning at a point on the East line of said Lot 4 (being the West line of vacated South Jefferson Street), 295.00 feet North of the North line of West 22nd Street; thence West parallel with the North line of said West 22nd Street, a distance of 233.90 feet; thence North 71.84 feet to a point 234.03 feet West of the West line of said vacated South Jefferson Street; thence East parallel with the North line of said West 22nd Street, a distance of 234.04 feet to a point on the West line of said vacated South Jefferson Street; thence South along the West line of said vacated South Jefferson Street, a distance of 71.84 feet to the point of beginning).

That part of Lot 4 in Block 38 in Canal Trustees' Subdivision of the West ½ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, described as follows:

Commencing at a point on the East line of said Lot 4 (being the West line of vacated South Jefferson Street), 366.84 feet North of West 22nd Street; thence West parallel with the North line of said West 22nd Street, a distance of 234.03 feet to the point of beginning; thence continuing West parallel with the North line of said West 22nd Street, a distance of 129.71 feet to a point on the West line of said Lot 4; thence North along the West line of said Lot 4, a distance of 129.78 feet to a point on the South line of vacated West 21st Street; thence East along the South line of said vacated West 21st Street, a distance of 129.70 feet to a point 234.16 feet West of the West line of said vacated South Jefferson Street; thence South, a distance of 129.43 feet to the point of beginning.

UNOFFICIAL COPY**Parcel 3:**

That portion of the West ½ of vacated South Jefferson Street, 66 feet wide, lying South of and adjoining the Westward prolongation of the South line of vacated West 20th Place and North of and adjoining a line which is 366.84 feet North of and parallel with the North line of West 22nd Street;

All of the portion of vacated West 21st Street, 60 feet wide, which portion lies West of and adjoining the West line of South Jefferson Street (as said West line is extended through said West 21st Street) and East of and adjoining the Southward extension of the center line of vacated South Desplaines Street, as extended Southward to the South line of vacated West 21st Street;

That portion of the East ½ of vacated South Desplaines Street, 50 feet wide, which portion lies North of and adjoining the North line of vacated West 21st Street, as said North line is extended through said vacated South Desplaines Street, and lying South of and adjoining the Eastward extension of the South line of the North 20 feet of Lot 59 in the Subdivision of Lot 1 in Block 38 of Canal Trustees' Subdivision aforesaid;

The South ½ of vacated West 21st Street, 60 feet wide, lying West of and adjoining the center line of vacated South Desplaines Street, extended Southward to the South line of said vacated West 21st Street and lying East of and adjoining the Northward extension of the West line of Lot 4 in Block 38 in said Canal Trustees' Subdivision;

All in the South West ¼ of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois

Parcel 4:

Easement for the benefit of Parcels 1, 2, and 3 for ingress and egress as created by Declaration of Easement dated February 29, 2000, and recorded April 28, 2000, as document number 00300044 and re-recorded January 31, 2005, as document 0503133180 over and upon:

The East ½ of vacated Jefferson Street adjacent to Lot 3 in Block 37 in Canal Trustees' Subdivision of the West ½ and so much of the South East ¼ as lies West of the South branch of the Chicago River of Section 21, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois, and the South 12 feet of vacated 20th Place adjacent to Lot 3 aforesaid and extending to the western most boundary of said easement

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PIN: 17-21-323-005-0000
17-21-323-006-0000
17-21-323-007-0000
17-21-323-008-0000
17-21-323-009-0000
17-21-323-010-0000
17-21-323-011-0000
17-21-323-012-0000
17-21-323-013-0000
17-21-323-018-0000
17-21-323-029-0000
17-21-323-030-0000
17-21-323-038-0000
17-21-323-039-0000
17-21-330-007-0000

CKA: 2040 SOUTH JEFFERSON STREET, CHICAGO, IL 60616

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

Office of Cook County Clerk's Office

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EXHIBIT B

PERMITTED ENCUMBRANCES

[See Attached]

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

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Exhibit B

1. TAXES FOR THE YEAR 2011
2. RIGHTS OF THE CITY OF CHICAGO, THE STATE OF ILLINOIS, THE PUBLIC AND ADJOINING OWNERS IN AND TO THOSE PARTS OF THE LAND FALLING IN VACATED STREETS AND ALLEYS.
3. RIGHTS OF THE PUBLIC OR QUASI-PUBLIC UTILITIES, IF ANY, IN SAID VACATED STREETS AND ALLEYS FOR THE MAINTENANCE THEREIN OF POLES, CONDUITS, SEWERS, ETC.
4. RIGHTS OF THE PUBLIC OR QUASI-PUBLIC UTILITIES AS DISCLOSED BY SURVEY MADE BY CHICAGO GUARANTEE SURVEY COMPANY DATED DECEMBER 29, 2004, ORDER NUMBER 0412006, DEPICTING THE FOLLOWING: UTILITY POLES AND WIRES, CATCH BASINS, MANHOLES, GUY WIRES, SANITARY AND STORM SEWERS, LIGHT POLES, FIRE HYDRANTS AND CONNECTIONS, VALVES, WATER VALVES, INDICATOR VALVES, WATER METER AND WATER METER VAULT.
5. RIGHTS OF WAY FOR RAILROAD SWITCH AND SPUR TRACKS AS DISCLOSED BY SURVEY PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED DECEMBER 29, 2004 AS ORDER NUMBER 0412006.
6. EASEMENT IN, UPON, UNDER, OVER AND ALONG PART OF THE NORTH AND SOUTH 14 FOOT ALLEY DESCRIBED IN PARCEL 1 TO INSTALL AND MAINTAIN ALL EQUIPMENT FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY WITH ELECTRIC SERVICE, TOGETHER WITH RIGHT OF ACCESS TO SAID EQUIPMENT, AS CREATED BY GRANT TO THE COMMONWEALTH EDISON COMPANY, ITS SUCCESSORS AND ASSIGNS, RECORDED AUGUST 20, 1940 AS DOCUMENT 12533178.
7. EASEMENT IN, UPON, UNDER, OVER AND ALONG PART OF THE VACATED ALLEY DESCRIBED IN PARCEL 1 TO INSTALL AND MAINTAIN ALL EQUIPMENT FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY WITH ELECTRIC SERVICE, TOGETHER WITH RIGHT OF ACCESS TO SAID EQUIPMENT, AS CREATED BY GRANT TO THE COMMONWEALTH EDISON COMPANY, ITS SUCCESSORS AND ASSIGNS, RECORDED OCTOBER 14, 1954 AS DOCUMENT 16043261.
8. EASEMENT IN, UPON, UNDER, OVER AND ALONG PART OF THE VACATED STREETS AND ALLEYS DESCRIBED IN PARCEL 3 TO INSTALL AND MAINTAIN ALL EQUIPMENT FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY WITH ELECTRIC SERVICE, TOGETHER WITH RIGHT OF ACCESS TO SAID EQUIPMENT, AS CREATED BY GRANT TO THE COMMONWEALTH EDISON COMPANY, ITS SUCCESSORS AND ASSIGNS, RECORDED APRIL 30, 1971 AS DOCUMENT 21464630.

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9. EASEMENT IN, UPON, UNDER, OVER AND ALONG PART OF THE EAST 1/2 OF VACATED JEFFERSON STREET DESCRIBED IN PARCEL 3 LYING WEST OF AND ADJOINING LOTS 26 AND 27 OF PARCEL 1 TO INSTALL AND MAINTAIN ALL EQUIPMENT FOR THE PURPOSE OF SERVING THE LAND AND OTHER PROPERTY WITH ELECTRIC SERVICE, TOGETHER WITH RIGHT OF ACCESS TO SAID EQUIPMENT, AS CREATED BY GRANT TO THE COMMONWEALTH EDISON COMPANY, ITS SUCCESSORS AND ASSIGNS, RECORDED APRIL 30, 1971 AS DOCUMENT 21464632.
10. EASEMENT IN FAVOR OF PEOPLES GAS, LIGHT AND COKE COMPANY, A CORPORATION OF ILLINOIS, AND ITS 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 OCTOBER 14, 1988 AS DOCUMENT NO. 88475160.
11. ENCROACHMENT OF THE BUILDING LOCATED MAINLY ON THE LAND ONTO THE PROPERTY EAST OF AND ADJOINING BY APPROXIMATELY 0.19 FOOT, AS SHOWN ON PLAT OF SURVEY NUMBER 04120006 PREPARED BY CHICAGO GUARANTEE SURVEY COMPANY DATED DECEMBER 29, 2004 AS REVISED JANUARY 25, 2005.
12. (A) TERMS, PROVISIONS, AND CONDITIONS RELATING TO THE EASEMENT FOR THE BENEFIT OF PARCELS 1 TO 3 FOR INGRESS AND EGRESS AS CREATED BY DECLARATION OF EASEMENT DATED FEBRUARY 29, 2000 AND RECORDED APRIL 28, 2000 AS DOCUMENT 00300044 AND RERECORDED JANUARY 31, 2005 AS DOCUMENT 0503133180 OVER AND UPON:
THE EAST 1/2 OF VACATED JEFFERSON STREET ADJACENT TO LOT 3 IN BLOCK 37 IN CANAL TRUSTEES' SUBDIVISION OF THE WEST 1/2 AND SO MUCH OF THE SOUTHEAST 1/4 AS LIES WEST OF THE SOUTH BRANCH OF THE CHICAGO RIVER IN SECTION 21, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN AND THE SOUTH 12.00 FEET OF VACATED 20TH PLACE ADJACENT TO LOT 3 AFORESAID AND EXTENDING TO THE WESTERN MOST BOUNDARY OF SAID EASEMENT.

(B) RIGHTS OF THE ADJOINING OWNER OR OWNERS TO THE CONCURRENT USE OF SAID EASEMENT.

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EXHIBIT C

IDENTIFIED LEASES

None

COOK COUNTY
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SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
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EXHIBIT D

COMPLIANCE EXCEPTIONS

Exceptions, if any, contained in that certain environmental reports tendered to Lender by Borrower and Mortgagor relating to the Property.

**COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____**

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**COOK COUNTY
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EXHIBIT E

DISCLOSED MATERIALS

None

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____

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