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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Doc#: 1229229047 Fee: \$106.00
Eugene "Gene" Moore RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 10/18/2012 11:41 AM Pg: 1 of 35

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 19-04-423-047-0000

Address:

Street: 4558 SOUTH CICERO AVENUE

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60638

Lender: AMERICAN FIDELITY ASSURANCE COMPANY

Borrower: BALANCE PROPERTY GROUP, LLC

Loan / Mortgage Amount: \$1,400,000.00

This property is located within the program area and is exempt from the requirements of 735 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 0CAB65F9-3995-44AB-8D2B-007205E9D7EB

Execution date: 10/17/2012

8893823 DI CAB 1/6

Property of Cook County Clerk's Office

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RECORDING PREPARED BY AND
WHEN RECORDED MAIL TO

Pircher, Nichols & Meeks
1925 Century Park East
Suite 1700
Los Angeles, California 90067-6077
Attention: James L. Brat, Esq.

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

MORTGAGE
WITH ASSIGNMENT OF RENTS AND FIXTURE FILING
4558 So. Cicero Ave.,
Chicago, Illinois

THIS MORTGAGE is made as of October 17, 2012, by BALANCE PROPERTY GROUP, L.L.C., an Illinois limited liability company ("**Mortgagor**"); to AMERICAN FIDELITY ASSURANCE COMPANY, an Oklahoma corporation ("**Mortgagee**").

1. **DEFINITIONS.** Certain terms used in this Mortgage are defined below; and certain other terms used in this Mortgage are defined elsewhere in this Mortgage. Except as otherwise indicated: terms defined in the Note shall have the same meaning when used in this Mortgage or other Security Document; and terms defined in the Security Documents, other than this Mortgage, shall have the same meaning when used herein or in the Note.

"**Event of Default**" means the occurrence of any of the following, regardless of the cause thereof, or the circumstances giving rise thereto:

(1) Mortgagor's failure to make any payment within ten (10) days of the date when due in accordance with the terms of the Note or any

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Security Document (provided that such 10-day grace period shall not apply as to payments due upon the maturity of the Note);

(2) Any of Mortgagor's representations or warranties contained in the Note or any Security Document is untrue;

(3) A Transfer of the Property in any material respect in violation of the requirements of the Mortgage.

(4) Mortgagor's default in the performance of any other term, covenant or condition contained in the Note or any Security Document, which is not cured within thirty (30) days after written notice of such default given by Mortgagee to Mortgagor (except that, if the default is such that it cannot be cured within said thirty (30) day period, and Mortgagor promptly commences the cure of such default within ten (10) days after such written notice and diligently pursues such cure to completion, then such thirty (30) day period shall be extended to such period of time as may be reasonably necessary, but in no event more than a total of 90 days);

(5) Should Mortgagor, any guarantor of the Note, any shareholder owning ten percent (10%) or more of the shares of Mortgagor, any general partner, joint venturer, manager or any managing member of Mortgagor, or any successors and permitted assigns of any of them (each an "**Essential Party**"):

(a) file a petition in voluntary bankruptcy or for an arrangement or reorganization under any bankruptcy or insolvency laws, or debtor relief statutes (hereinafter referred to as a "**Bankruptcy Proceeding**");

(b) file any answer in any Bankruptcy Proceeding or any other action or proceeding admitting insolvency or inability to pay its debts;

(c) fail to oppose, or fail to obtain a vacation or stay of, any involuntary Bankruptcy Proceeding within forty-five (45) days after the filing thereof;

(d) be granted a decree or order for relief, or be adjudicated a bankrupt or declared insolvent in any Bankruptcy Proceeding, whether voluntary or involuntary;

(e) have a trustee or receiver appointed for or have any court take jurisdiction of its property, or the major part thereof, or the Property, in any voluntary or involuntary proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, if such trustee or receiver is not discharged or if such jurisdiction is not relinquished, vacated or stayed on appeal or otherwise, within forty-five (45) days after the commencement thereof;

(f) make an assignment for the benefit of creditors;

(g) consent to any appointment of a receiver or trustee or liquidator of all of its property, or the major part thereof, or the Property;

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(h) have an attachment or execution levied with respect to, or other judicial seizure be effected for, all or substantially all of its assets or interest in the Property, or the placing of any attachment, levy of execution, charging order, or other judicial seizure on the interest of any member in Mortgagor;

(i) dissolve as an entity, whether voluntarily or involuntarily, or by operation of law; or

(j) dies.

provided that so long as no other separate Event of Default or default under the Cash America Lease then exists, no Event of Default shall exist under clause (j) if, within 60 days of the event Mortgagee is provided with a substitute guarantor, acceptable to Mortgagee based on its then current underwriting standards.

(6) Failure by any guarantor of the Note, or of any obligation under any security document, to perform any of its obligations under its guaranty agreement prior to the expiration of any applicable cure or grace period, or any of such guarantor's representations or warranties contained in its guaranty, or in any other document or instrument furnished or delivered to Mortgagee in connection therewith, is untrue in any material respect;

(7) The granting of a final judgment, final order or final decree for the payment of money against Mortgagor, which is not satisfied and paid, or enforcement of which has not been stayed, within ten (10) days after the date of entry of such judgment, order or decree;

(8) If (a) the term of any policy of insurance required by this Mortgage shall expire or lapse or (b) Mortgagor receives notice of cancellation of any such policy and Mortgagor does not provide Mortgagee with written evidence of a replacement or renewal policy of insurance complying with this Mortgage at least five (5) business days prior to the date of cancellation or expiration of such policy;

(9) A default beyond any applicable cure or grace period shall have occurred under any other encumbrance or security agreement affecting the Property whether senior or junior; or

(10) an "Event of Default" occurs under that certain Mortgage with Assignment of Rents and Fixture Filing as of the same date hereof (the "**Grenville Mortgage**") and executed by Grenville Property Group, L.L.C., an Illinois limited liability company (together with Mortgagor, "**Borrower**"); the property encumbered by the Grenville Mortgage being the "**Grenville Property**").

"**Note**" means that certain promissory note of even date herewith executed by Borrower and payable to Mortgagee or its order, in the principal amount of One Million Four Hundred Thousand Dollars (\$1,400,000). The interest rate under the Note is equal to 4.75% per annum (prior to any default or maturity or acceleration) and, subject to any applicable usury limitation, 9.75% per annum thereafter. The stated maturity date under the Note is November 1, 2027.

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"Property" means the real property described in Exhibit "A", attached hereto and incorporated herein by reference, together with all buildings and other improvements now or hereafter located thereon, and any and all right, title or interest in any other real property or improvements comprised in such real property, which right, title or interest is acquired after the date of this Mortgage (such real property, buildings, improvements and after-acquired interest being hereinafter collectively referred to as the **"Real Property"**); all easements and other rights now or hereafter made appurtenant to the Real Property; all additions and accretions to the Real Property; all fixtures, machinery, equipment, and appliances at any time attached to, or located in or on the Real Property in which Mortgagor has an interest; all rights in or to existing or future streets or public places; all existing and future minerals, oil, gas and other hydrocarbon substances upon, under or through the Real Property; all water and water rights, pumps and pumping plants, and existing and future water stock relating thereto; all existing and future shares of stock or other evidence of ownership of any part of the foregoing property and all intangible property and rights relating to the foregoing property, or the operation thereof or used in connection therewith, including all options, sales contracts and rights of first refusal of any nature whatsoever, covering all or any portion of such property, together with any deposits or other payments made in connection therewith, existing and future development rights, permits and approvals, air rights and other similar land use permits, approvals or entitlements; and all proceeds of any of the foregoing. As used herein, "fixtures" includes all articles of personal property in which Mortgagor has an interest, now or hereafter attached to, placed upon for a definite or an indefinite term, or used in connection with and located at the Property. Any reference in this Mortgage to the "Property" shall mean the Property described in this Section, any part thereof, or any interest therein.

"Security Documents" means this Mortgage, the Absolute Assignment of Rents and of Interest in Leases, and the Security Agreement, all of even date herewith, and any other documents or instruments now or hereafter securing the Note or securing the obligations secured by this Mortgage.

"Taxes and Assessments" means all taxes, assessments, levies and charges imposed by any public or quasi-public authority having jurisdiction over the Property which are or may affect, or become a lien upon, the Property, or the rents, royalties, profits and income of the Property, or interest therein, or imposed by any public or quasi-public authority upon Mortgagor or Mortgagee by reason of their respective interests in the Property or by reason of any payment, or portion thereof, made to Mortgagee hereunder or pursuant to any obligation secured by any Security Document, other than taxes which are measured by and imposed upon Mortgagee's general net income.

"Transfer" means the sale, transfer, hypothecation, encumbrance, mortgage, conveyance, lease, alienation, assignment, disposition, divestment, or leasing with option to purchase, or assignment of the Property, or any portion thereof or interest therein (whether direct or indirect, legal or equitable); if Mortgagor, any guarantor of the Note, any direct or indirect general partner of Mortgagor, or a parent of any of the foregoing is a corporation or trust, the issuance, sale, assignment, alienation, conveyance, divestment, transfer, disposition, hypothecation, mortgage or encumbrance of more than ten percent (10%) of the stock or shares in such corporation, or

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beneficial interest in such trust; if Mortgagor, any guarantor of the Note, any direct or indirect general partner of Mortgagor or a parent of any of the foregoing is a partnership or a limited liability company, the issuance, sale, assignment, alienation, conveyance, divestment, transfer, disposition, hypothecation, mortgage or encumbrance of any portion of the partnership interests or limited liability company interests in such entity; or entering into any agreement or contract to do any of the foregoing which is not conditioned on compliance with the terms of the Security Documents with respect to Transfers, or undertaking, suffering or causing any of the foregoing to occur voluntarily, involuntarily or by operation of law.

2. GRANT IN TRUST. Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Mortgagee, and grant a security interest to Mortgagee in, the Property.

3. ASSIGNMENT OF RENTS. Mortgagor absolutely, unconditionally and irrevocably assigns to Mortgagee the rents, royalties, issues, profits, security deposits and income of the Property for the purposes and upon the terms and conditions hereinafter set forth. The foregoing assignment shall not impose upon Mortgagee any duty to produce rents from the Property, and such assignment shall not cause Mortgagee to be a "mortgagee in possession" for any purpose. This assignment is an absolute and present assignment from Mortgagor to Mortgagee and not merely the passing of a security interest, subject only to the provisions hereinafter contained pertaining to Mortgagor's collection of the rents, issues and profits of the Property.

4. OBLIGATIONS SECURED. Mortgagor makes the foregoing grant and assignment for the purpose of securing the following in such order of priority as Mortgagee may determine:

4.1 Payment of Loan. Payment to Mortgagee of all indebtedness evidenced by or arising under the Note, together with interest thereon, including sums added to the principal balance of the Note in accordance with the terms thereof, and all prepayment, late or other charges or fees payable thereunder, and any and all modifications, extensions, renewals or substitutions thereof whether or not evidenced by a new or additional promissory note or notes;

4.2 Payment of Further Loans. Payment of such further indebtedness with interest thereon, and performance of and compliance with such further obligations as the then record owner of the Property may undertake to pay, perform or comply with for the benefit of Mortgagee, its successors or assigns, when such borrowing or obligation is evidenced by a note or by any writing reciting that it or they are so secured;

4.3 Performance Under Security Documents. Performance of and compliance with each agreement, undertaking, obligation, warranty or representation of Mortgagor or any other person contained in any Security Document, or incorporated therein by reference, or in any and all documents, leases or instruments assigned to Mortgagee or executed in Mortgagee's favor and delivered thereunder, and payment of all sums, fees, costs and expenses as therein set forth or which may otherwise be advanced by or due to Mortgagee under any provision of any Security Document, with interest thereon at the rate provided therein. However, if any document now or hereafter executed by

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Mortgagor and Mortgagee contains any obligation, covenant, representation or warranty of Mortgagor that by its express terms, or by the express terms of such document, is not intended to be secured by this Mortgage, then such obligation, covenant, representation or warranty shall not be secured by this Mortgage or any other Security Document (but only to the extent necessary, with respect to temporal applicability, scope or otherwise, to render the same unsecured), and to the extent (if any) that such unsecured obligation, covenant, representation or warranty may be repeated in any provision of this Mortgage or any other Security Document, it shall be deemed stricken and excluded from this Mortgage and such Security Document (but only to the extent necessary, with respect to temporal applicability, scope or otherwise, to render the same unsecured) from and after the date on which such unsecured obligation, covenant, representation or warranty arises and becomes effective under terms of the document in which it is contained.

5. FIXTURE FILING. This Mortgage constitutes a financing statement, filed as a fixture filing in the real estate records of the County of the State in which the real property described in Exhibit "A" is located, with respect to any and all fixtures included within the terms "Property" and "Fixtures" under this Mortgage and to any goods or other personal property that are now or hereafter become a part of the Property as fixtures.

6. COVENANTS.

6.1 Performance of Obligations. Mortgagor shall promptly pay when due all sums secured hereby, together with any interest thereon, and shall perform and comply with in a timely manner and in accordance with their terms all other obligations secured by this Mortgage. All sums payable by Mortgagor hereunder shall be paid without notice, demand, setoff, deduction, defense, abatement or deferment and all obligations and liabilities of Mortgagor hereunder shall not be released, discharged or otherwise affected by reason of any act, claim or circumstance of any kind or nature, whether or not Mortgagor has notice or knowledge thereof.

6.2 Title. Mortgagor warrants and represents that (a) Mortgagor lawfully holds and possesses the Property and has the right to encumber; (b) the persons executing this Mortgage on behalf of Mortgagor have the full right, power and authority so to do on behalf of Mortgagor; (c) this Mortgage, as so executed and delivered, is a valid and fully binding obligation of Mortgagor, enforceable in accordance with its terms; and (d) Mortgagor, its authorized employees, agents and representatives, have all reviewed, approved, and been fully advised with respect to this Mortgage, the loan transaction evidenced by the Note, and any other document or instrument executed and delivered in connection therewith or as security therefor.

6.3 Taxes and Assessments.

6.3.1 Mortgagor's Obligation for Payment of Taxes and Assessments. Mortgagor shall pay all Taxes and Assessments prior to delinquency. When and if so requested by Mortgagee, Mortgagor shall deliver promptly to Mortgagee receipts evidencing such payment, except to the extent Mortgagee makes payments with deposits under Section 6.5. Mortgagor shall not suffer, permit, initiate, or otherwise cause for any tax purpose, the joint assessment of the real property described in Exhibit "A" hereto and any

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personal property located thereon, or any other procedure whereby the lien of real property taxes and assessments and the lien of personal property taxes shall be assessed, levied or charged against such real property as a single lien. While any obligation or indebtedness secured by any Security Document or the lien of this Mortgage remains outstanding on the Property, the Property shall be segregated on the applicable tax rolls from all other property, both real and personal; and Mortgagor shall procure on behalf of Mortgagee a tax service contract, the issuer, form and content of which shall be subject to Mortgagee's prior approval.

6.3.2 Effect of Change in Law. If at any time any law is enacted which deducts from the value of real property, for taxation purposes, any lien thereon, or changes in any way the laws now in force for the taxation of deeds of trust or debts secured thereby, or the manner of collection of any such taxes so as to affect any interest of Mortgagee under this Mortgage then Mortgagor shall pay such tax if it may lawfully do so. If Mortgagor is not permitted by applicable law to pay such tax, or if such payment would violate any applicable law, then the whole of the principal sum secured by this Mortgage, together with accrued interest thereon, at the option of Mortgagee, without demand or notice, shall immediately become due and payable.

6.4 Insurance. For so long as this Mortgage or the Note is in effect, Mortgagor shall continuously maintain insurance in accordance with the following provisions:

6.4.1 Required Coverage. Mortgagor shall maintain or cause to be maintained insurance in such amounts and insuring against such risks as shall be required by Mortgagee from time to time, including the following:

A. All Risk. All risk coverage insurance, including loss or damage by fire, lightning, windstorm, hail, debris removal, explosion, riot attending a strike, civil commotions, aircraft, vehicles, smoke and other risks from time to time included under "all risks coverage" policies in an amount equal to one hundred percent (100%) of the full replacement value of all improvements on the Property, as well as a Law and Ordinance Endorsement which pays for the extra expense of rebuilding to comply with ordinances or laws which did not exist when building was originally built;

B. Liability. Bodily injury (including death) in an amount not less than Two Million Dollars (\$2,000,000), public liability and property damage insurance applicable to the Property in an amount not less than Two Million Dollars (\$2,000,000) in general aggregate and One Million Dollars (\$1,000,000) per occurrence, and, during the making of any alterations or improvements to the Property, Mortgagor shall maintain and provide proof of coverage to Mortgagee (which shall name Mortgagee as Loss Payee): (i) owner's contingent liability insurance covering claims not covered by the general comprehensive insurance referred to above, and (ii) Worker's Compensation insurance covering all persons engaged in making such alterations or improvements with a 30 day notice of cancellation;

C. Flood and Mudslide. Flood and mudslide insurance in amount equal to the lesser of (1) the amount required for one hundred percent (100%) of the full replacement value of all improvements, with co-insurance clause if any, only as acceptable to Mortgagee, or (2) the maximum

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limit of coverage available with respect to the Property under the Federal Flood Insurance Program; provided that such flood and mudslide insurance shall only be required if the Property is subsequently situated within an area identified by the Secretary of Housing and Urban Development (or any other appropriate governmental department, agency, bureau, board, or instrumentality) as an area having special flood or mudslide hazard, or if flood or mudslide insurance is required on the Property by any regulations under which the Mortgagee is governed;

D. Rent Loss. Rent loss or business interruption insurance against any loss of income resulting from damage or destruction from insurable perils in an amount not less than twelve (12) months of principal and interest payments under the Note, together with escrow collections under Section 6.5, if applicable, with Mortgagee named as Loss Payee;

E. Mandatory Insurance. Workers' compensation and all other insurance, if any, of whatsoever description and in such amounts as may be required by any ordinance, law or governmental regulation to be carried or maintained by Mortgagor or the owner of all or any part of the Property in connection with Mortgagor's operation of the same or the use of the same by Mortgagor or any other person, partnership, corporation or entity, or in connection with the construction, demolition, maintenance or repair of the Property or any part thereof;

F. [Intentionally Omitted]; and

G. Other Insurance Coverages. Such increased amounts and additional insurance, and in such amounts, as may from time to time be reasonably required by Mortgagee including boiler and machinery insurance, and dram shop (if alcoholic beverages are served at the Property).

6.4.2 General Requirements. The policies of insurance to be maintained by Mortgagor under the provisions of this Mortgage shall be issued by responsible insurance carriers with a Best's rating of no less than A-VII, licensed to do business in the State of Illinois, who are acceptable to Mortgagee and shall be in such form and with such endorsements (including a mortgagee clause in favor of Mortgagee), waivers and deductibles as Mortgagee shall designate or approve. (Without limitation on the foregoing:

A. Named Insureds. All policies shall name Mortgagor as the insured, and (with the exception of policies for workers' compensation insurance) shall include a Standard Mortgage Clause naming name Mortgagee first mortgagee with loss proceeds under policy payable to Mortgagee and as mortgagee and as an additional insured (with a confirmation endorsement) under Mortgagor's liability policy (or Tenant's, if Tenant obtains the insurance) (under a standard non-contributing mortgagee protection clause, in form satisfactory to Mortgagee, attached to such policy or policies whenever applicable, and providing, among other matters, that all insurance proceeds shall be paid to Mortgagee).

B. Required Provisions. All policies shall contain: (1) the agreement of the insurer to give Mortgagee at least 30 days' notice prior to cancellation or expiration of or change in such policies, or any of them; (2) a waiver of subrogation rights against Mortgagee and

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Mortgagor; (3) an agreement that such policies are primary and non-contributing with any insurance that may be carried by Mortgagee; (4) a statement that the insurance shall not be invalidated should any insured waive in writing prior to a loss any or all right of recovery against any party for loss accruing to the property described in the insurance policy; (5) no provision of co-insurance, or, if co-insurance provisions do exist, an Agreed Amount Endorsement must be added, (6) a "Cut-Through" endorsement if any portion of coverage is reinsured, (7) all of the Property locations must be identified by street address, (8) a deductible not greater than \$10,000 (earthquake, flood, wind and blanket on multiple properties accepted), and (9) if obtainable, a provision that no act or omission of Mortgagor shall affect or limit the obligation of the insurance carrier to pay the amount of any loss sustained. As of the date hereof, and subject to any changes in such requirements which Mortgagee may, in its discretion, make from time to time pursuant to its rights under this Section 6.4, each policy of insurance hereunder (other than workers compensation insurance) shall contain a Lender's Loss Payable endorsement (Form 438 B.F.U.), Mortgagee Clause (Form 127B), or other non-contributory mortgagee clause of similar form and substance acceptable to Mortgagee in favor of Mortgagee as a first mortgagee.

6.4.3 Delivery of Certificates and Renewals. Concurrently herewith, Mortgagor shall deliver to Mortgagee the policies required hereunder with premiums for the current policy year prepaid evidencing the insurance required hereunder. Mortgagor shall procure and pay for renewals of such insurance from time to time before the expiration thereof, and Mortgagor shall deliver to Mortgagee such policies evidencing the renewal policies with premiums prepaid at least 30 days before the expiration of any existing policy. Such policies shall be approved by Mortgagee in Mortgagee's sole discretion and shall be written on an ACORD 25 (Certificate of Liability) and ACORD 28 (Evidence of Commercial Property Insurance).

6.4.4 Adjustment and Distribution of Casualty Insurance Proceeds. Mortgagor shall cause any insurance policy in respect of loss or damage to the Mortgaged Property to provide that any loss (a) shall be adjusted by Mortgagor and Mortgagee, and (b) shall be paid to Mortgagee.

6.4.5 [Intentionally Deleted]

6.4.6 Release. Mortgagor, for itself, and on behalf of its insurers, hereby releases and waives any right to recover against Mortgagee on any liability for: damages for injury to or death of persons; any loss or damage to property, including the property of any occupant of the Property; any loss or damage to buildings or other improvements comprising the Property; any other direct or indirect loss or damage caused by fire or other risks, which loss or damage is or would be covered by the insurance required to be carried hereunder by Mortgagor, or is otherwise insured; or claims arising by reason of any of the foregoing, except to the extent caused solely by the negligence or willful misconduct of Mortgagee, or its employees, agents and contractors.

6.4.7 Miscellaneous. Mortgagee shall not, by reason of accepting, rejecting, obtaining or failing to obtain insurance, incur any liability for (a) the existence, non-existence, form, amount or legal sufficiency thereof, (b) the solvency or insolvency of any insurer, or (c) the payment of losses. All insurance required hereunder or carried by Mortgagor

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shall be procured at Mortgagor's sole cost and expense. Mortgagor shall deliver to Mortgagee receipts satisfactory to Mortgagee evidencing full prepayment for the current policy year of the premiums therefor, except to the extent Mortgagee makes payments with Mortgagor's deposits under Section 6.5 (for the periods and payments so covered by such payments). In the event of foreclosure on, or other transfer of title in lieu of foreclosure of, the Property, all of Mortgagor's interest in and to any and all insurance policies in force shall pass to Mortgagee, or the transferee or purchaser as the case may be, and Mortgagee is hereby irrevocably authorized to assign in Mortgagor's name to such purchaser or transferee all such policies, which may be amended or rewritten to show the interest of such purchaser or transferee.

6.5 Impound Account. Mortgagor shall pay to Mortgagee each month (on the first day thereof, together with the principal and interest payments under the Note) an amount estimated by Mortgagee to be equal to (a) the Taxes and Assessments payable under Section 6.3, and (b) premiums next due for all insurance carried under Section 6.4, each such estimate divided by the number of months to lapse preceding the month in which it will become due and Mortgagor irrevocably grants and assigns to Mortgagee a security interest in and to the amounts, if any, so paid by Mortgagor. Such funds shall not be claimed to be held in trust and no sums so paid shall bear interest, except to the extent of the minimum amount of interest, if any, required by law; and Mortgagee shall, unless Mortgagor has committed an Event of Default, apply such funds to, or (at the sole option of Mortgagee) release such funds to Mortgagor for, payment of such Taxes and Assessments and premiums. If Mortgagor has committed an Event of Default, Mortgagee may, in its sole discretion, apply all or any part of such sums in order of priority as Mortgagee may determine to any indebtedness secured by this Mortgage. Mortgagor shall restore all of the amounts so applied, as well as correct the other events or conditions constituting the Event of Default not corrected by such application. If the total amount retained in the impound account exceeds the amount of payments actually applied by Mortgagee as set forth above, such excess may be credited by Mortgagee on subsequent payments to be made by Mortgagor hereunder or, at the option of Mortgagee, refunded to Mortgagor; but if the security account shall not be sufficient to pay the sums required at least 30 days before the same are due and payable, Mortgagor shall within ten (10) days after written notice deposit with Mortgagee the full amount of any such deficiency. Mortgagee hereby agrees to waive the requirement for tax and insurance deposits so long as:

(a) The Property ownership and any tenants (unless otherwise approved by Mortgagee) remain the same as of the date hereof;

(b) There is no Event of Default, and all Taxes and Assessments and insurance premiums for the insurance required under Section 6.4 have been paid when due;

(c) Mortgagee has been provided with policies of insurance evidencing that the Property is covered by insurance as required by the Security Documents; and

(d) All Taxes and Assessments are paid when due, upon Mortgagee's request, Mortgagor shall provide Mortgagee with a copy of paid tax

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receipt or an approved tax contract is in place throughout the life of the loan and Mortgagee is provided with a copy of the tax contract.

6.6 Liens and Encumbrances. Except as is specifically permitted by this Mortgage, Mortgagor shall not cause, suffer or create any liens or encumbrances upon the Property; and Mortgagor shall pay at or prior to maturity, all obligations secured by or reducible to liens and encumbrances which now or hereafter shall encumber the Property, whether senior or subordinate hereto, including all claims for work or labor performed, or materials or supplies furnished in connection with any work of improvement upon the Property. Mortgagor may contest any such claim of lien without cost or expense to Mortgagee, but only upon posting, and concurrently supplying to Mortgagee a certified copy of a statutory bond or a title insurance policy endorsement satisfactory to Mortgagee or other security sufficient under applicable law fully to protect any and all of the Property encumbered by such claim of lien and otherwise sufficient in Mortgagee's sole opinion to protect Mortgagee against any judgment in favor of the lien claimant. If Mortgagee is made a party to any litigation concerning this Mortgage, or the Property or any part thereof or interest therein, or the occupancy thereof by any person or entity, then Mortgagor shall indemnify, defend and hold Mortgagee harmless from all claims and liability by reason of such litigation, including reasonable attorneys' fees and expenses incurred by Mortgagee whether or not any such litigation is prosecuted to judgment. Any lien or encumbrance hereunder shall be paid and fully discharged by Mortgagor within five (5) days after demand by Mortgagee or contested by Mortgagor as described above.

6.7 Disposition of Insurance and Condemnation Proceeds and Damages.

6.7.1 Mortgagee's Rights in Proceeds and Damages. Mortgagor hereby assigns to Mortgagee (a) any award for damages suffered or compensation paid by reason of a taking for public use, or an action in eminent domain, or the exercise of the police power, whether by a condemnation proceeding or otherwise (such as by inverse condemnation), or any transfer of all or any part of the Property in avoidance thereof, affecting the Property, (b) all proceeds of any insurance policies paid by reason of loss sustained to the Property, and (c) all claims, damages, causes of action, against or from any party or parties, with respect to the Property, or any funds received or receivable in connection with any damage to the Property, incurred as a result of any cause whatsoever. All proceeds of any such claims shall be paid by the person or entity making payment directly to Mortgagee and Mortgagor shall do all things necessary to obtain prompt settlement for each loss or claim covered by a policy of insurance. After first deducting all costs and expenses of Mortgagee incurred in connection with the settlement or recovery of any proceeds hereunder, Mortgagee may, at its option and without regard to the adequacy of the security hereunder, except as otherwise provided in Section 6.7.2, apply any such sum it retains hereunder to any indebtedness or obligation secured hereby whether due or not, and in such order or priority as Mortgagee may determine; however, after deducting its costs and expenses Mortgagee may, at the sole discretion of Mortgagee and regardless of any impairment of security or lack thereof, except as otherwise provided in Section 6.7.2, release to Mortgagor all or any part of the entire amount so collected for reimbursement for costs and expenses incurred by Mortgagor for the repair and restoration of the affected Property upon any conditions Mortgagee chooses. Application of

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all or any portion of such funds, or the release thereof, shall not cure or waive any Event of Default or notice of an Event of Default or invalidate any acts done pursuant to such notice. Mortgagor shall execute such further assignments, documents or instruments as Mortgagee may from time to time require in order to evidence the assignment hereunder. If, on any loss of or damage to the Property or on a partial taking or condemnation of the Property, Mortgagee is not entitled under law to retain the entirety of any proceeds or award pursuant to this Section 6.7, then Mortgagee shall be entitled to apply the proceeds or award to the repayment of the Note and any other indebtedness secured by any Security Document to the extent necessary in Mortgagee's judgment to reduce the Note balance and such other indebtedness by the ratio which the value of the Property remaining encumbered hereby bears to the value of the Property encumbered hereby immediately prior to such loss, damage or partial condemnation or taking, as determined by Mortgagee's appraiser retained for such purpose. In the event any insurance proceeds or condemnation awards are applied by Mortgagee against the Note under this Section 6.7.1, no prepayment premium shall apply.

6.7.2 Use of Insurance Proceeds to Repair Property. In the event of damage to or destruction of the Property from any cause actually covered under insurance maintained by Mortgagor hereunder, then Mortgagee shall make available to Mortgagor the net insurance proceeds available as a result of such damage or destruction (after deducting costs and expenses incurred by Mortgagee in connection with the settlement or recovery of any proceeds as provided in Section 6.7.1) for use by Mortgagor, in the reconstruction and repair of the damaged improvements to the condition approved by Mortgagee, on the terms and conditions hereinafter set forth. In the event any of the conditions to Mortgagor's right to utilize the net proceeds hereunder are not satisfied or fulfilled at any time, then such net proceeds shall be applied as provided in Section 6.7.1. Such net proceeds shall be made available hereunder only if: (a) Mortgagor has not then, and at all times while the work of design, repair and reconstruction is being effected, committed an Event of Default; (b) Mortgagee is satisfied in its sole discretion, that by expenditure of the net proceeds hereunder the Property damaged or destroyed shall be fully restored within a reasonable period of time to the equivalent of its original condition and value and all payments required under the Note will continue to be paid; (c) in Mortgagee's sole judgment, such work of repair and restoration can be completed in the ordinary course of business within six months from the commencement of work and at least six months prior to the maturity of the Note; (d) Mortgagee has reviewed and approved Mortgagor's plans and specifications for the work of repair and restoration, Mortgagor's architect and any general contractors, subcontractors and material suppliers employed to perform such work; (e) if so required by Mortgagee in its discretion, all general contractors, all major subcontractors and material suppliers have supplied 100% performance and completion bonds and bonds protecting the Property from the imposition of mechanic's or other liens; (f) if the net insurance proceeds available are insufficient for payment of the full cost of restoration or repair and the payments under the Note during the completion period (and re-releasing period, if any), as estimated by Mortgagee, Mortgagor has deposited with Mortgagee sufficient additional funds to insure payment of all such costs, or made arrangements acceptable to Mortgagee for such sufficient additional funds, such additional funds to be disbursed for costs incurred in the manner herein specified prior to the disbursement of any other funds held by Mortgagee; and (g) Mortgagor shall have satisfied such other conditions as

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Mortgagee may in good faith determine to be appropriate. Disbursement of funds by Mortgagee hereunder shall be subject to all of Mortgagee's then customary construction loan disbursement procedures. No funds held by Mortgagee hereunder shall bear interest; and Mortgagee shall have no duties or obligations with respect thereto, or with respect to the provisions of this Section 6.7.2, other than that of a construction lender; and the reasonable costs and expenses of Mortgagee incurred in connection therewith (including the fees of a construction consultant and disbursing agent) shall be paid by Mortgagor (and Mortgagee shall be entitled to pay such costs and expenses out of the insurance proceeds held by Mortgagee). Specifically, but without limiting the generality of the foregoing, no relationship of trust, or any other duty in the nature of fiduciary duties or otherwise, shall be imposed or implied by the status or actions of Mortgagee hereunder; and under no circumstances shall Mortgagee become obligated to take any action to repair or reconstruct any damaged or destroyed Property. Any net proceeds not disbursed under this Section 6.7.2 shall be disbursed in accordance with Section 6.7.1.

6.8 Maintenance and Preservation of the Property.

6.8.1 Mortgagor's Obligation for Maintenance of Property and Security. Mortgagor shall: (a) keep the Property in good condition and repair and replace any items comprising the Property as they become obsolete or worn out with items of at least the same utility, quality and value, free of any liens or security interests of any kind or character other than the lien of the Security Documents; (b) not remove or demolish the Property; (c) restore promptly and in good and workmanlike manner any part of the Property which may be damaged or destroyed; (d) comply with and not suffer violations of laws, ordinances, regulations, covenants, conditions, restrictions, equitable servitudes and easements, whether public or private, of every kind and character, and requirements of insurance companies and any bureau or agency which establishes standards of insurability; (e) not commit or permit waste of the Property; (f) do all other acts which from the character or use of the Property may be reasonably necessary to maintain and preserve its value or to protect the security hereof; (g) perform and comply with all obligations required to be performed or complied with in leases, licenses, concessions, management agreements, or like agreements affecting the Property or the management, operation, occupation or use thereof; (h) pay any and all charges, assessments or fees imposed in connection with the delivery, installation or maintenance of any utility services or installations on, to or for the Property; (i) not change the character, the nature of the occupancy or use of the Property, or any portion thereof; (j) not drill for or extract, or enter into a lease or any other type of agreement for the drilling for or extraction of, oil, gas or other hydrocarbon substances, or any mineral of any kind, on, in or under the Property; (k) make no assignment of rents of the Property except to Mortgagee; and (l) execute and, where appropriate, acknowledge and deliver, such further documents or instruments as Mortgagee or Trustee deems necessary or appropriate to preserve, continue and perfect the security provided for herein. Without limitation of the foregoing, required maintenance of the Property shall include, but not be limited to, a roof inspection not less than once every five (5) years during the term of the Loan by a licensed roofing contractor, or more often if reasonably required by Mortgagee, and Mortgagor shall provide to Mortgagee upon request proof satisfactory to Mortgagee that the roof for the Property is in good condition. Mortgagor shall cause any repairs to the roof to be made and completed at Mortgagor's sole cost

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not later than 30 days after the roofing contractor's recommendation of needed repairs.

6.8.2 Mortgagee's Approval Rights for Work. Mortgagor shall not undertake or suffer to be made any alteration, addition, relocation, removal or demolition of, or structural or other material change in, any building, improvement, fixture, machinery, or equipment comprising the Property, without the prior written approval of Mortgagee, unless (a) the aggregate cost of such work does not exceed \$25,000, (b) such work does not affect the roof or the structure of the building and improvements comprising the Property, or adversely affect or diminish the value of the Property or arise as a result of any damage or destruction, and (c) such work is designed by licensed professionals and is constructed by licensed contractors, all qualified for such purpose, and in accordance with all applicable laws, ordinances, regulations, permits and approvals. The foregoing shall not limit Mortgagor's obligations under Section 6.8.1 and accordingly, Mortgagor shall immediately seek any consent required under this Section 6.8.2 in connection with its obligations under Section 6.8.1.

6.8.3 Compliance with Laws. Mortgagor warrants and represents to Mortgagee that Mortgagor and the Property currently comply, and will in the future comply, fully with all applicable laws, ordinances and regulations, and all permits and approvals issued thereunder, affecting Mortgagor's right and qualification to do business, the construction and installation of the improvements located or to be located upon the Property, the operation, leasing, financing or sale of the Property and the occupancy, use and enjoyment thereof. Without limitation on the foregoing, Mortgagor represents and warrants to Mortgagee that it has complied with and shall continue to comply with all applicable laws relating to accessibility for the handicapped, including The Architectural Barriers Act of 1968, The Rehabilitation Act of 1973, The Fair Housing Act of 1988, and The Americans With Disabilities Act of 1990. Without the prior written consent of Mortgagee, Mortgagor shall not seek, make or consent to any change in the lot or parcel boundaries, zoning, conditions of use, or any other applicable land use laws, ordinances, regulations, permits, approvals or licenses pertaining to the Property, or which would constitute a violation of the warranties and representations herein contained, or would change the nature of the use or occupancy of the Property. Mortgagor shall within ten (10) days after receipt thereof by Mortgagor, or its agent or representative, deliver to Mortgagee copies of any and all approvals, permits and licenses procured by Mortgagor with respect to the Property, construction and installation of improvements thereon, or the occupancy, use and enjoyment thereof, pursuant to applicable laws, ordinances, or regulations.

6.9 Defense and Notice of Actions. Mortgagor shall, without liability, cost or expense to Mortgagee, protect, preserve and defend title to the Property, the security hereof and the rights or powers of Mortgagee hereunder, against all adverse claimants to title, or any possessory or non-possessory interest in the Property. Mortgagor shall give Mortgagee prompt written notice of the filing or occurrence of any such event, action or proceeding, including fire or other casualty causing damage to the Property; notice of condemnation or other taking of the Property; notice from any governmental agency relating to the Property of any violation of law; a change

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in the nature of the occupancy or use of the Property; or the commencement of any litigation affecting the Property or the title thereto.

6.10 Collection of Rents, Issues and Profits; Approval of Leases.

6.10.1 Mortgagor's Authority to Collect and Retain Rents.

Mortgagee shall have the absolute right to collect and retain the rents, issues and profits assigned herein, without taking possession of all or any part of the Property. The right to collect rents and profits herein provided shall not grant to Mortgagee or Trustee the right to possession, except as expressly herein provided; nor shall such right impose upon Mortgagee or Trustee the duty to produce rents or profits or maintain the Property in whole or in part. Possession of the Property by a receiver appointed by a court of competent jurisdiction shall not be considered possession of the Property by Mortgagee or Trustee for purposes hereof. Mortgagee may apply, in its sole discretion and in any order of priority, any rents, issues and profits collected against the costs of collection and any indebtedness secured by or obligations of Mortgagor arising under the Security Documents. Collection of any rents, issues and profits by Mortgagee shall not cure or waive any Event of Default or notice of Event of Default, or invalidate any acts done pursuant to such notice. To the extent that Mortgagor or its agent receives any rents, issues or profits in excess of the amounts then due under the Loan Documents, Mortgagor shall return (or cause its Loan servicer) to return any such excess within three (3) business days after its receipt thereof.

6.10.2 Mortgagor's Authority to Enter into Leases.

Mortgagor shall not enter into any lease of the Property, or any portion thereof, without the prior written consent of Mortgagee. Mortgagor shall, on demand, execute such further assignments to Mortgagee of any or all leases, agreements, rents, issues or profits of the Property as Mortgagee may require. Upon request of Mortgagee, Mortgagor shall promptly deliver to Mortgagee a copy of the fully executed original of any or all leases or agreements entered into hereunder. All leases of the Property shall be subordinate to this Mortgage unless Mortgagee elects in writing, at its sole option, to subordinate this Mortgage to a particular lease or leases; and all such leases shall provide, in a manner approved by Mortgagee, that the tenant thereunder shall recognize as its lessor and attorn to any person succeeding to the interest of Mortgagor upon foreclosure of this Mortgage (or deed in lieu thereof).

6.11 Right of Inspection. Mortgagee, its agents or employees, may enter the Property at any time for the purpose of inspecting the Property or ascertaining Mortgagor's compliance with the terms of any Security Document.

6.12 Annual Statements; Books and Records. Within one hundred twenty (120) days after the end of each fiscal year of Mortgagor, Mortgagor shall deliver to Mortgagee: (i) an annual operating statement for the Property showing gross income (itemized as to source), operating expenses (itemized), depreciation charges and net income before and after federal income taxes, (ii) a current balance sheet for the Property, (iii) a current balance sheet and annual profit and loss statement for the Mortgagor; (iv) personal financial statements for each guarantor (prepared using sound accounting practices consistently applied); and such other financial statements of Mortgagor and guarantors as reasonably requested by Mortgagee and certified (by Mortgagor and/or guarantor, as applicable) as true and correct in all material respects.

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Mortgagor shall forward to Mortgagee promptly upon request a current rent roll and the most recent quarterly operating statement for the Property. The financial and operating statements shall be prepared in accordance with generally accepted accounting principles and practices, consistently applied, and shall be certified as correct in all material respects by an officer, partner or other member of Mortgagor and any such guarantor, as applicable. After and during the occurrence of an Event of Default, the financial and operating statements relating to Mortgagor shall be accompanied by an unqualified opinion of an independent certified public accountant, satisfactory to Mortgagee, confirming that such statements with respect to Mortgagor and the Property have been prepared in accordance with generally accepted accounting principles. Mortgagor shall keep books and records of account of all income and expenses of the Property and of its own financial affairs sufficient to permit the preparation of the financial and operating statements in accordance with the standards herein contained. Mortgagee and its designated agents and representatives shall have the absolute right at all times to examine, copy, and audit any such books and records. Mortgagor shall also furnish to Mortgagee promptly upon request such documents and instruments as Mortgagee may request in order to verify the accuracy of any of the information contained in any statement submitted hereunder. All books and records pertaining to the income, expenses, management or operation of the Property shall be kept at Mortgagor's principal place of business unless otherwise approved by Mortgagee; and all books and records to Mortgagor's financial condition shall be kept at Mortgagor's principal place of business or the office of Mortgagor's accountants. In the event that Mortgagor fails to deliver to Mortgagee in a timely fashion any operating statements or other information required to be delivered to Mortgagee under this Section 6.12, or thereafter within 30 days following Mortgagee's written request therefor, a fee of \$1,000.00 may be charged to Mortgagor. An additional fee of \$100.00 shall be charged to Mortgagor for each month thereafter during any "Loan Year" (as defined in the Note) until all such required operating statements or other required information shall have been delivered to Mortgagee. If any such fee is not paid to Mortgagee on or before the last day of any "Loan Year" (as defined in the Note), then Mortgagee shall be entitled at its election to add such outstanding fee to the principal balance of the Loan.

6.13 [Intentionally Omitted.]

6.14 [Intentionally Omitted.]

6.15 [Intentionally Omitted.]

6.16 Acceleration Upon Sale or Further Encumbrance.

6.16.1 Obligations of Mortgagor Regarding Transfers. By delivery of this Mortgage, Mortgagor acknowledges that the financial standing and managerial and operational ability of Mortgagor are substantial and material considerations to Mortgagee in its agreement to make the loan evidenced by the Note and that any encumbrance or transfer of an interest in the Property will materially impair Mortgagee's reasonable security hereunder. In order to induce Mortgagee to make the loan evidenced by the Note secured hereby, Mortgagor agrees Mortgagor shall not effect a Transfer, either directly or indirectly, or by operation of law, without in each instance first obtaining Mortgagee's prior written consent, which consent may be withheld for any

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reason, or given upon such terms and conditions as Mortgagee deems necessary or appropriate, all within Mortgagee's sole discretion, to the extent permitted by applicable law. Upon any Transfer made in violation of this Section 6.16, Mortgagee shall have the absolute right in its sole discretion, without demand or notice, to declare all sums, indebtedness and obligations secured hereby to be immediately due and payable (including the prepayment premium set forth in the Note), except to the extent that and in such particular circumstances where exercise of such right by Mortgagee is prohibited by law. Any Transfer effected pursuant to a consent or waiver by Mortgagee shall be subject to this Mortgage, and any such direct transferee shall, as a condition of the effectiveness of any such consent or waiver and as a covenant of Mortgagor and such transferee, and in form and substance prescribed by Mortgagee, assume all obligations hereunder and agree to be bound by all provisions contained herein (and, without limitation, such assumption shall contain an express acknowledgment of the prepayment provisions of the Note and their application if there is an acceleration of the Note by reason of a Transfer or otherwise, which acknowledgment shall be separately initialed by the transferee). Such assumption shall not, however, release Mortgagor or any maker or guarantor of the Note from any liability thereunder. Except as herein provided, any transaction or event of any kind effecting a Transfer or further encumbering the Property, or changing the identity of the parties primarily liable for performance of Mortgagor's covenants under this Mortgage, shall constitute an impairment of Mortgagee's reasonable security interests under this Mortgage.

6.16.2 Conditions to Consent. Without limitation on Mortgagee's right to withhold its consent to any Transfer, Mortgagee agrees to consent to a Transfer in its entirety, provided each of the conditions is satisfied:

(1) Mortgagee's approval (in its sole discretion) of any proposed substitute guarantor; provided that Mortgagee shall not unreasonably withhold its approval provided that the proposed purchaser's and guarantor's creditworthiness and real estate experience satisfies Mortgagee's then current underwriting guidelines; provided further that if the current guarantor(s) is a warm body human being(ies), Mortgagee will not accept, nor will it in any way be required to accept, any proposed borrower or substitute guarantor who is not a warm body(ies) human being(s).

(2) Mortgagee's approval (in its sole discretion) of any Transfer of any beneficial interest in Mortgagor;

(3) Mortgagee's approval of the transferee's creditworthiness and real estate experience utilizing the Mortgagee's then current underwriting guidelines;

(4) that there be no existing default or existing Event of Default under the Note or any Security Document;

(5) Mortgagee shall have received and approved of a then current property inspection report showing the property to be in good condition with no material deferred maintenance;

(6) the payment to Mortgagee of a transfer fee equal to one percent (1%) of the outstanding principal balance of the Loan, which

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Transfer Fee shall be paid at the closing of the assumption; provided that (a) a non-refundable administrative fee ("**Administrative Fee**") of Five Thousand Dollars (\$5,000) shall be due with the Mortgagor's request; (b) the Administrative Fee shall be earned upon receipt; and (c) if such request is approved, the Administrative Fee shall be credited against the Transfer Fee;

(7) to the extent the transferee is acquiring property subject to the Security Documents, the assumption of the Note and Security Documents and all liability thereunder by the transferee;

(8) the payment of all legal fees, recording fees, title insurance fees (including the cost of a CLTA 110.5 endorsement or its ALTA equivalent), any transfer taxes or tax increases as a result of such Transfer that are not paid by Tenant, and other costs related to the Transfer or the modification and assumption of the Note and Security Documents; and

(9) the written affirmation by the original Mortgagor, and any endorsers and guarantors of the Note, that each will not be released from liability under the Note or Security Documents and will continue to be liable after the transfer; provided that if (a) the above conditions are satisfied and (b) Mortgagor provides Mortgagee with a replacement guarantor acceptable to Mortgagee in its sole and absolute discretion based on its then current underwriting standards (it being understood that if the then-current guarantor(s) is a warm body human being(ings), Mortgagee will not accept, nor will Mortgagee in any way be required to accept, any proposed borrower or substitute guarantor who is not a warm body(ies) human being(s) acceptable to Mortgagee), such original guarantor(s) shall be released from liability to Mortgagee other than from any matters covered by Section 6.20.3 (or any such similar provision under any environmental indemnity entered into by Mortgagor in favor of Mortgagee) that arose during or prior to Mortgagor's ownership of the Property.

6.16.3 Certain Permitted Transfers in Mortgagor.

Notwithstanding anything to the contrary in this Mortgage, Mortgagee shall permit the members of Mortgagor as of the date of this Mortgage to Transfer ownership interests in Mortgagor, without the Mortgagee's prior written consent, and without any transfer fee, so long as there is no Event of Default under the Note, and provided that (a) Mortgagor has received prior written notice of any such proposed transfer, (b) Mortgagee has received copies of all transfer documents, (c) the transferee is either an immediate family member (i.e. a spouse or child) of member(s) or is wholly owned by or wholly controlled by or under common control with member(s) (including family trusts, and (d) no guarantor is released from liability on account of such transfer. For any Transfer permitted under this Section 6.16.3, the Administrative Fee shall be reduced to Two Thousand Five Hundred Dollars, which shall be due with the written notice.

6.16.4 Mortgage Provisions Control Over Other Instruments.

The provisions of this Section 6.16 shall prevail notwithstanding any contrary provisions in the Note or other instrument which evidences or secures obligations hereby secured. Mortgagor shall notify Mortgagee promptly in writing of, but in any event not later than thirty (30) days prior to, any transaction or event which may give rise to a right of acceleration under this Section 6.16.

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6.17 [Intentionally Omitted.]

6.18 Defense and Indemnity Rights. Whenever, under any Security Document, Mortgagor is obligated to indemnify or defend Mortgagee, or defend or prosecute any action or proceeding, then Mortgagee shall have the right of full participation in any such action or proceeding, with counsel of Mortgagee's choice, and all costs and expenses incurred by Mortgagee in connection with such participation (including reasonable attorneys' fees) shall be reimbursed by Mortgagor to Mortgagee immediately upon demand. Mortgagor shall give notice to Mortgagee of the initiation of all proceedings prosecuted or required to be defended by Mortgagor, or which are subject to Mortgagor's indemnity obligations under any Security Document promptly after the receipt by Mortgagor of notice of the existence of any such proceeding. All costs or expenses required to be reimbursed by Mortgagor to Mortgagee hereunder shall, if not paid when due as herein specified, bear interest at the interest rate of the Note or at the Past Due Rate if the Note contains a Past Due Rate, until paid by Mortgagor. As used herein, "proceeding" shall include litigation, arbitration and administrative hearings or proceedings.

6.19 Destruction of Note. Mortgagor shall, if the Note is mutilated or destroyed by any cause whatsoever, or otherwise lost or stolen and regardless of whether due to the act or neglect of Mortgagee, execute and deliver to Mortgagee in substitution therefor a duplicate promissory note within ten (10) days after Mortgagee notifies Mortgagor of any such mutilation, destruction, loss or theft of the Note. Any such new promissory note shall be in full substitution for the Note, shall not constitute any new or additional indebtedness of Mortgagor to Mortgagee, shall constitute solely a substitute evidence of the indebtedness evidenced by the original Note, and shall not affect in any manner the priority of any Security Document.

6.20 Provisions Relating to Hazardous Materials.

6.20.1 After due inquiry and investigation, Mortgagor represents and warrants that, except as set forth in that certain All Appropriate Inquiry Phase I Environmental Site Assessment dated September 28, 2012, prepared by K-Plus Engineering LLC (the "**Environmental Report**"): (a) the Property complies with all Hazardous Materials Law as to use and conditions on, under or about the Property including soil and groundwater condition; (b) neither Mortgagor nor, to the best of Mortgagor's knowledge, any other person, has used, generated, manufactured, stored or disposed of on, under or about the Property or transported to or from the Property any Hazardous Materials; and (c) to the best knowledge of Mortgagor, there are no Hazardous Materials in, attributable to or affecting the Property or the area within 2,000 feet of the Property. Without limitation on the foregoing, to the best knowledge of Mortgagor, except as set forth in the Environmental Report: (i) the primary potable or drinking water source and groundwater has never been known to exceed the EPA Recommended Maximum Contaminant Level Goals set forth under the Safe Drinking Water Act and Clean Water Act, as amended; (ii) there is not and has never been landfill containing decomposable material, petroleum wells, mineral bearing mines, sewage treatment facilities, underground storage tanks, sinkholes, radon or other toxic emissions within 2,000 feet of any boundary of the Property, and (iii) no electrical transformers, fluorescent light fixtures with ballasts or other equipment containing polychlorinated biphenyls (PCBs) have been located on the Property at any time.

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6.20.2 Mortgagor covenants and agrees that Mortgagor shall not cause or permit the presence, use, generation, manufacture, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about the Property, or the transportation of any Hazardous Materials to or from the Property. Mortgagor shall immediately notify Mortgagee in writing of: (a) any enforcement, cleanup, removal or other governmental or regulatory action instituted, completed or threatened in connection with any Hazardous Materials; (b) any claim made or threatened by any third party against Mortgagor or the Property relating to damage, contribution, cost recovery, compensation, loss or injury to persons or property resulting from any Hazardous Materials; and (c) Mortgagor's discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause all or any portion of the Property to be subject to any restrictions on the ownership, occupancy, transferability or use of the Property under Hazardous Materials Law. Without Mortgagee's prior written consent, Mortgagor shall not take any remedial action in response to the presence of any Hazardous Materials on, in, under or about the Property, nor enter into any settlement agreement, consent decree or other compromise in respect to any Hazardous Materials (except that in the case of an emergency, Mortgagor shall take such action as may be reasonably required under the circumstances and shall immediately notify Mortgagee in writing of any such action taken).

6.20.3 Mortgagor shall indemnify, defend and hold Mortgagee, its employees, agents, officers and directors, harmless from and against any claim, action, suit, proceeding, loss, cost, damage, liability, deficiency, fine, penalty, punitive damage or expense (including attorneys', experts' and consultant fees), directly or indirectly resulting from, arising out of, or based upon (a) the presence, release, use, manufacture, generation, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such materials to or from, the Property, or (b) the violation, or alleged violation, of any Hazardous Materials Law affecting the Property, or the transportation of Hazardous Materials to or from the Property. This indemnity shall (i) include any damage, liability, fine, penalty, punitive damage, cost or expense arising from or out of any claim, action, suit or proceeding for personal injury (including sickness, disease or death), tangible or intangible property damage, compensation for lost wages, business income, profits or other economic loss, damage to the natural resources or the environment, nuisance, pollution, contamination, leak, spill, release or other adverse effect on the environment, and the cost of any required or necessary repair, cleanup, treatment or detoxification of the Property, and the preparation and implementation of any closure, disposal, remedial or other required actions in connection with the Property, and (ii) survive foreclosure (whether judicial or nonjudicial) of this Mortgage and the full or partial payment or discharge of all indebtedness secured hereby.

6.20.4 If at any time during the term of this Mortgage Mortgagee reasonably suspects that a potential environmental problem may exist, then Mortgagee shall have the right, on twenty-four (24) hours prior written notice to Mortgagor, at Mortgagor's expense, to enter the Property and to conduct such tests and investigations as Mortgagee deems necessary to determine whether any Hazardous Materials are present in, under, on or about the Property. Such tests and investigation shall include underground borings,

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ground water analyses and borings from the floors, ceilings and walls of any improvements located on the Property.

6.20.5 **"Hazardous Materials Law"**, for purposes of this Section 6.20, means any federal, state, or local law, ordinance or regulation or any rule adopted or guideline promulgated pursuant thereto, or any order, ruling or directive of any federal, state, local, executive, judicial, legislative, administrative or other governmental or public agency, board, body or authority relating to health, industrial hygiene, the environment, or the occupational or environmental conditions on, under or about the Property (including ambient air, soil, soil vapor, groundwater, surface water or land use), whether now or hereafter in force, including those relating to the release, emission or discharge of Hazardous Materials, those in connection with the construction, fuel supply, power generation and transmission, waste disposal or any other operations or processes relating to the Property. "Hazardous Materials Law" shall include the Comprehensive Environmental Response, Compensation and Liability Act of 1980, the Hazardous Materials Transportation Act, the Resource Conservation and Recovery Act, the Solid Waste Disposal Act, the Clean Water Act, the Clean Air Act, the Carpenter-Presley-Tannel Hazardous Substance Account Act and any applicable law, ordinance or regulation or any rule adopted or guideline promulgated pursuant thereto, in the State of Illinois, as the same are now or hereafter amended.

"Hazardous Materials", for purposes of this Section 6.20, means any chemical, substance, object, condition, material or waste that is or may be hazardous to human health or safety or to the environment, due to its radioactivity, ignitability, corrosivity, flammability, reproductive toxicity, infectiousness or other harmful properties or effects, including all chemicals, substances, materials and wastes that are now or hereafter may be regulated in any manner, classified as dangerous, hazardous or toxic, or as pollutants or contaminants, or to which exposure is prohibited or restricted by any federal, state or local government or public agency, board, body or authority or by any Hazardous Material Law. "Hazardous Materials" include flammable explosives, radioactive materials, polychlorinated biphenyls, asbestos, hazardous waste, radon, toxic substances or other related materials whether in the form of a chemical, element, compound, solution, mixture or otherwise, including those materials defined as "hazardous substances", "hazardous materials", "toxic substances", "air pollutants", "toxic pollutants", "hazardous wastes", "extremely hazardous waste" or "restricted hazardous waste" by any Hazardous Materials Law.

6.20.6 Nothing herein shall be construed for purposes of any Hazardous Materials Law as devolving control of the Property or imposing owner or operator status on Mortgagee.

6.21 Default Provisions.

6.21.1 Rights and Remedies. At any time after the occurrence of an Event of Default, Mortgagee shall have each and all of the following rights and remedies:

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(a) Immediate Payment of Obligations. With or without notice, to declare all obligations secured by any Security Document immediately due and payable.

(b) Cure Default. With or without notice, and without releasing Mortgagor from any obligation hereunder, to cure any default of Mortgagor and, in connection therewith, to enter upon the Property in person, or by an agent or employee, or by a receiver appointed by a Court of competent jurisdiction, and to do such acts and things as Mortgagee may deem necessary or desirable to protect the security hereof.

(c) Judicial Proceedings. To commence and maintain an action or actions in any Court of competent jurisdiction to foreclose this Mortgage as a mortgage, or without regard to the adequacy of any security for the indebtedness secured hereby, to obtain specific enforcement of the covenants of Mortgagor hereunder, for an injunction against any violation of this Mortgage, the appointment of a receiver, or for such other equitable relief as may be appropriate, in addition to any other remedies Mortgagee may otherwise have.

(d) Manage and Operate Property. To enter upon, possess, manage and operate the Property, or any part thereof, either in person, or by an agent or employee, or by a receiver appointed by a Court of competent jurisdiction; to make, terminate, enforce or modify leases of the Property upon such terms and conditions as Mortgagee deems necessary or proper and to act in any manner which Mortgagee may deem necessary or desirable in connection therewith; and to make repairs, alterations and improvements to the Property necessary, in Mortgagee's judgment, to protect or enhance the security hereof. All sums realized by Mortgagee under this Section 6.21.1(d), less all costs and expenses incurred by it hereunder, including reasonable attorneys' fees, shall be applied on any indebtedness secured hereby in such order of priority as Mortgagee shall determine. Neither application of such sums to such indebtedness, nor any other action taken by Mortgagee under this Section 6.21.1(d), shall cure or waive any Event of Default or notice of Event of Default or nullify the effect of any such notice.

(e) **[Intentionally Omitted.]**

(f) Resort to Security. To resort to and realize upon the security hereunder and any other security now or hereafter held by Mortgagee in such order and manner as Mortgagee may in its sole discretion determine. Resort to any or all such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions or lawfully taken non-judicial proceedings, or both.

(g) Appointment of Receiver. To apply to any court having jurisdiction to appoint a receiver or receivers for the Property, as a matter of right and without notice to Mortgagor or anyone claiming under Mortgagor, and without regard to the then value of the Property or the adequacy of any security for the obligations secured hereby, Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor. Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Mortgagee in case of entry as provided herein. Mortgagor agrees to promptly

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deliver to any such receiver all leases, rents, issues and profits (including security deposits), documents, financial data and other information requested by such receiver in connection with the Property and, without limiting the foregoing, Mortgagor hereby authorizes Mortgagee to deliver to any such receiver any or all of the leases, rents, issues and profits, documents, data and information in Mortgagee's possession relating to the Property.

(h) Exercise Other Rights and Remedies. To exercise or invoke any and all other rights and remedies as may be available to Mortgagee now or hereafter at law or in equity.

No action taken, or right or remedy invoked, by Mortgagee under this Section 6.21.1, including the appointment of a receiver for the Property, or the entry into possession of the Property, or any part thereof, by such receiver or otherwise, shall be deemed to make Mortgagee a "mortgagee in possession" or otherwise responsible or liable in any manner with respect to the Property, or the use, occupancy, enjoyment or operation of all or any part thereof. In no event shall Mortgagee be required to accept a cure of any default beyond the applicable grace, notice and cure periods provided in the Security Documents, if any, notwithstanding any statement or provision to the effect that rights or remedies are available while an Event of Default "exists", "continues" or is "outstanding", or during the "existence" or "continuation" of an Event of Default (or any similar statement or provision) in any of the Security Documents, or anything else in the Loan Documents.

6.21.2 Payment of Costs, Expenses and Attorneys' Fees. All costs and expenses incurred by Mortgagee pursuant to Section 6.21.1 (including court costs and attorneys' fees, whether or not incurred in litigation and whether or not foreclosure is concluded, including, without limitation, attorney's fees incurred in connection with any judicial or nonjudicial foreclosure of this Mortgage or the other Security Documents, or in connection with both judicial and nonjudicial foreclosure, if Mortgagee shall elect to pursue each such remedy whether concurrently or independently) shall be secured by this Mortgage and shall bear interest at the interest rate of the Note or at the Past Due Rate if the Note contains a Past Due Rate, from the date of expenditure until such sums have been paid. Mortgagee shall be entitled to bid, at any sale of the Property held pursuant to Section 6.21.1(e) above, the amount of all such costs, expenses, and interest in addition to the amount of any other obligations hereby secured by a credit bid as the equivalent of cash.

6.21.3 Remedies Cumulative; No Waiver. All rights and remedies of Mortgagee hereunder are cumulative and not alternative, and are in addition to all rights and remedies otherwise provided by law. No exercise of any right or remedy by Mortgagee shall constitute a waiver of any other right or remedy. No delay or omission by Mortgagee to exercise any right, power or remedy hereunder shall impair any such right or remedy, or be construed as a waiver of any Event of Default, or any acquiescence therein. By accepting payment of any sum secured hereby after its due date or later performance of any obligation secured hereby, Mortgagee shall not waive its right against any person obligated directly or indirectly hereunder, or on any obligation hereby secured, either to require prompt payment when due of all other sums so secured or to declare an Event of Default for failure to make such prompt payment or render such performance; and Mortgagee's acceptance of partial payment of any sum secured hereby after its due date (which may be applied to such outstanding

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payment obligations as Mortgagee may elect, notwithstanding Mortgagor's instructions to the contrary), or acceptance of partial performance of any obligation secured hereby in default, shall not cure such payment failure or default, or affect any notice of an Event of Default or sale heretofore given or recorded, unless such notice is expressly revoked in writing by Mortgagee.

6.21.4 Releases, Extensions, Modifications and Additional Security. Without affecting the liability of any person for payment of any indebtedness secured hereby, or the lien or priority of this Mortgage or any other Security Document upon the Property, Mortgagee may, from time to time, with or without notice, do one or more of the following: release the liability of any person for the payment of any indebtedness secured hereby; make any agreement or take any action extending the maturity or otherwise altering the terms or increasing the amount of any indebtedness secured hereby; and accept additional security, or release all or a portion of the Property and other security held to secure the indebtedness secured hereby. If Mortgagee holds any other or additional security for the payment of any indebtedness or performance of any obligation hereby secured, then any sale or foreclosure of such security upon any Event of Default, in the sole discretion of Mortgagee, may be prior to, subsequent to, or contemporaneous with, any sale or foreclosure hereunder and any property in which Mortgagee holds a security interest may be sold as a unit with the Property.

6.21.5 Marshalling of Assets. Mortgagor waives all right to require a marshalling of assets by Mortgagee; and Mortgagor waives the right to require Mortgagee to resort first to any portion of the Property retained by Mortgagor before resorting to any other portion of the Property which may have been transferred or conveyed subject hereto, whether such resort to security is undertaken by non-judicial sale or through proceedings in judicial foreclosure.

6.22 Amendments. This Mortgage may be amended at any time and from time to time only by an amendment in writing, executed by Mortgagee and Mortgagor, and recorded or filed as required by applicable law for the giving of constructive notice.

6.23 Consents. Consent or waiver by Mortgagee to or of any term, covenant or condition under this Mortgage, or of any Event of Default, or failure by Mortgagee to insist upon strict performance by Mortgagor of any term, covenant or condition contained in any Security Document, shall be effective or binding on Mortgagee only if made in writing by Mortgagee and no such consent or waiver shall be implied from any conduct or act of Mortgagee, or any omission by Mortgagee to take action with respect to any such term, covenant, condition or default. No express written consent to or waiver of any term, covenant or condition of this Mortgage or Event of Default shall affect any other term, covenant or condition, or any other matter or Event of Default, or cover any other time period or event, other than the application of any such term, covenant or condition to the matter as to which a consent or waiver has been given or the Event of Default, time period or event specified in such express consent or waiver.

6.24 Execution of Documents. Mortgagor shall, upon request by Mortgagee, execute, with acknowledgment or affidavit if required, and deliver, any and all documents and instruments required to effectuate the provisions hereof.

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6.25 Statement of Condition. From time to time as required by law, Mortgagee shall furnish to Mortgagor such statements as may be required by law concerning the condition of the obligations secured hereby. As a condition to Mortgagee's obligation to issue any such statement, Mortgagor shall pay to Mortgagee such charge as Mortgagee has established for the issuance of such statements, or the maximum amount allowed by law for each such statement, if such amount is less than Mortgagee's charge.

6.26 Mortgagor and Mortgagee Defined. As used in this Mortgage, the term "Mortgagor" includes each original signatory of this Mortgage as Mortgagor and each of its permitted successors and assigns; and the term "Mortgagee" includes the Mortgagee named herein or any future owner or holder, including pledgees, of any note, notes or instrument secured hereby, or any participation therein.

6.27 Rules of Construction. When the identity of the parties or other circumstances make appropriate, the neuter gender shall include the feminine and masculine, and the singular number shall include the plural. Specific enumeration of rights, powers and remedies of Mortgagee and of acts which they may do and of acts Mortgagor must do or not do shall not exclude or limit the general. The headings of each Section are for information and convenience and do not limit or construe the contents of any provision hereof. The provisions of this Mortgage shall be construed as a whole according to their common meaning, not strictly for or against any party and consistent with the provisions herein contained, in order to achieve the objectives and purposes of these trusts. The use in this Mortgage (including any Exhibit hereto) of the words "including", "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such statement, term or matter to the specific items or matters, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter; the use herein of the words "costs" or "expenses" shall include the cost of title evidence and reasonable fees and costs of attorneys for Mortgagee; and the use herein of the word "prompt", or "immediately" in any form, or words of similar import, when used with reference to any notice required to be given or act to be undertaken by Mortgagor shall mean notice given or act performed not later than five (5) days after the occurrence of the specified event for which notice or action is required, unless another time period is made expressly applicable. If Mortgagor is composed of more than one person or entity, then the obligations of Mortgagor under this Mortgage, the Note and under the other Security Documents are joint and several; and each covenant, warranty, representation and agreement of Mortgagor hereunder and thereunder shall be deemed made by each such person or entity comprising Mortgagor, both individually and collectively.

6.28 Severability. If any term of this Mortgage, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the remainder of this Mortgage, or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of this Mortgage shall be valid and enforceable to the fullest extent permitted by law.

6.29 Successors in Interest. Subject to the limitations herein contained regarding Transfers, the terms, covenants and conditions herein

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contained shall be binding upon and inure to the benefit of the parties, and their respective heirs, successors and assigns, and shall also be binding upon all tenants, lessees, occupants or other persons in possession of all, or any part of, the Property, or holding under Mortgagor.

6.30 Estoppel Certificates; Information to Third Persons.

6.30.1 Execution of Estoppel Certificates by Mortgagor.

Within ten (10) days after Mortgagee's request therefor, Mortgagor shall deliver a duly acknowledged written statement setting forth the amount of the indebtedness secured by this Mortgage, stating either that no setoffs or defenses exist against the Mortgage, or, if such setoffs or defenses are alleged to exist, the specific nature thereof, and attesting to such other matters with respect to this Mortgage, or any indebtedness secured hereby, which Mortgagee may request. Failure of Mortgagor to execute, acknowledge and return such statement within the time period herein specified shall be deemed an admission by Mortgagor that the information contained in the statement is true and correct. Mortgagor acknowledges that any statement rendered hereunder may be relied upon by any transferee or assignee of Mortgagee, or any other person or entity participating in the Note or this Mortgage.

6.30.2 Mortgagor's Obligation to Supply Information to Third Persons.

If, at any time, Mortgagee desires to sell, transfer or grant a participation interest in all or any portion of the Note, this Mortgage or any other Security Document to any third person, Mortgagor shall furnish in a timely manner any and all information concerning the Property and leases thereof, and concerning Mortgagor's and the Property's financial condition, which information is reasonably requested by Mortgagee or such person in connection with any such sale, transfer or participation. All such financial information shall conform to the standards set forth in Section 6.12 and shall otherwise be in such form, substance and detail as Mortgagee, or such person, may reasonably require.

6.31 Commingling of Funds.

No sums collected or retained by Mortgagee shall be deemed to be held in trust; and Mortgagee may commingle any and all such funds or proceeds with its general assets and shall not be liable for the payment of any interest or other return thereon, except to the minimum extent required by law.

6.32 Standards of Discretion.

Nothing contained in this Mortgage, the Note, or any other Security Document shall limit the right of Mortgagee to exercise its business judgment in a subjective manner with respect to any matter as to which it has specifically been granted such right or the right to act in its sole discretion or judgment hereunder or thereunder, whether or not "objectively" reasonable under the circumstances, and any such exercise shall not be deemed inconsistent with any covenant of good faith and fair dealing otherwise implied by law to be a part of this Mortgage, any other Security Document or the Note. The foregoing provision shall not be deemed an acknowledgment by the parties that any such covenant is so implied or is a part hereof or thereof, but the parties intend to affirm the standards pursuant to which the exercise of Mortgagee's discretion is to be measured.

6.33 Certain Warranties and Representations.

All representations and warranties contained in any Security Document, and each representation or

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warranty of Mortgagor incorporated by reference therein or herein, and any modification or amendment thereof, shall survive the closing and funding of the loan, shall not be deemed to have merged herein or in any other document or instrument delivered concurrently herewith or hereafter, and shall remain as continuing representations and warranties of Mortgagor so long as any portion of the indebtedness secured hereby remains unpaid.

6.34 Mortgagor Waiver of Rights. Mortgagor waives, to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Property, (b) all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the obligation secured hereby in the event of foreclosure of the liens hereby created, (c) all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of the State of Illinois pertaining to the rights and remedies of sureties, (d) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Mortgage or to any action brought to enforce the Note or any other obligation secured hereby, and (e) any rights, legal or equitable, to require marshalling of assets or to require foreclosure sales in a particular order. Mortgagee shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Mortgagee shall have the right to determine the order in which any of all portions of the obligations secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein.

6.35 Waiver of Statute of Limitations. Until all indebtedness and obligations secured by any Security Document have been paid and performed in full, Mortgagee's rights shall continue even if suit for such indebtedness, or any portion thereof, is barred by a statute of limitations. The right of Mortgagor, if any, to plead any and all statutes of limitation as a defense to any demand with respect to such indebtedness is expressly waived by Mortgagor, to the full extent permissible by law.

6.36 Effect of Waivers. Mortgagor acknowledges, warrants and represents in connection with each waiver of any right or remedy of Mortgagor contained in this Mortgage, the Note, or any other Security Document, that it has been fully informed with respect to, and represented by counsel of its choice in connection with, such rights and remedies, and all such waivers, and after such advice and consultation, has presently and actually intended, with full knowledge of its rights and remedies otherwise available at law or in equity, to waive or relinquish such rights and remedies to the full extent specified in each such waiver.

6.37 Late Charges; Past Due Rate; Prepayment. The Note may contain provisions imposing a late charge and past due rate of interest if payments are not timely made, and prepayment restrictions and premiums as more particularly described in the Note.

6.38 **[Intentionally Omitted.]**

6.39 Governing Law. This Mortgage shall be governed by and construed and enforced in accordance with the laws of the State of Illinois (without regard to conflicts of law), except where federal law is applicable

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(including, without limitation, any applicable federal law preempting state laws).

6.40 Notices. Except when otherwise required by law, any notice which a party is required or may desire to give the other shall be in writing and may be sent by personal delivery or by mail (either [i] by United States registered or certified mail, return receipt requested, postage prepaid, or [ii] by Federal Express or similar generally recognized overnight carrier regularly providing proof of delivery), addressed as follows (subject to the right of a party to designate a different address for itself by notice similarly given at least 15 days in advance):

To Mortgagor:

Balance Property Group, L.L.C.
c/o National Shopping Plazas, Inc.
200 W. Madison Street, #4200
Chicago, IL 60606
Attention: Mr. Jonathan M. Hanus

To Mortgagee:

American Fidelity Assurance Company
5100 North Classen Blvd., Suite 400
Oklahoma City, Oklahoma 73118
Attention: Bonnie S. Carter

With a Copy to:

Pircher, Nichols & Meeks
1925 Century Park East, Suite 1700
Los Angeles, California 90067
Attention: James L. Brat, Esq.

Any notice so given by mail shall be deemed to have been given as of the date of delivery (whether accepted or refused) established by U.S. Post Office return receipt or the overnight carrier's proof of delivery, as the case may be. Any such notice not so given shall be deemed given upon receipt of the same by the party to whom the same is to be given. Mortgagor requests that a copy of any notice of default and notice of sale hereunder be mailed to Mortgagor at the above address.

6.41 Sale of Participation. Mortgagee may, at any time, sell, transfer, assign or grant participations herein and in any and all notes and other obligations secured hereby, and Mortgagee may forward to each participant and prospective participant all documents and information which Mortgagee now has or later may acquire relating to those obligations and to Mortgagor, and any partners or joint venturers of Mortgagor, whether furnished by Mortgagor or otherwise, as Mortgagee determines necessary or desirable.

6.42 Representation by Legal Counsel. Mortgagor acknowledges that it has been advised by Mortgagee to seek the advice of legal counsel in connection with the negotiation and preparation of the Security Documents. If Mortgagor has chosen not to obtain legal representation, whether due to cost

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considerations or for other reasons, the lack of such representation shall not furnish Mortgagor with any defense to the enforcement of Mortgagee's obligations under the Security Documents.

6.43 Expenses. Mortgagor shall reimburse Mortgagee for any out of pocket expenses, including, but not limited to, reasonable attorneys' fees incurred by Mortgagee in reviewing and/or approving any documents requested by Mortgagor, or other costs incurred by Mortgagee in exercising its rights pursuant to this Mortgage, the Note or any of the other loan documents. In addition, Mortgagee will charge, and Mortgagor shall pay, an administrative fee based upon the amount of time and effort required by in-house staff to review and approve any Mortgagor request. This fee will be determined at the time the request is made by Mortgagor and must be paid by Mortgagor before, and as a condition to, Mortgagee's final approval of the request. Payment of the fees and expenses of Mortgagee does not require Mortgagee to approve any request.

6.44 Foreclosure - Applicable Law.

(a) The law applicable to any foreclosure of this instrument shall be the Illinois Mortgage Foreclosure Law, Illinois Compiled Statutes, Chapter 735, Act 5, Section 15-1101, et seq., as from time to time amended (the "Act").

(b) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the 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.

(c) If any provision of this Mortgage shall grant to Lender any rights or remedies upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

(d) 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 enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

6.45 Waiver of Homestead and Redemption. Mortgagor hereby expressly waives any and all rights of redemption and reinstatement in connection with foreclosure of this Mortgage, it being the intent hereof that any and all such rights of redemption and reinstatement of the Mortgagor and of all other persons, are and shall be deemed to be hereby waived to the full extent permitted by the provisions of the Act or other applicable law or replacement statutes.

6.46 Purpose of Loan. The entire proceeds of the loan evidenced by the Note constitute "business loan" as that term is used in Illinois Compiled Statutes, Chapter 815, Act 205, Section 4, and the beneficiary of Mortgagor is a "business" as that term is defined in said Illinois Compiled Statutes, Chapter 815, Act 205, Section 4.

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6.47 Receiver. In addition to any provision of this Mortgage authorizing the Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all powers, immunities and duties as provided for in the aforementioned sections of the Act.

6.48 Maximum Indebtedness. All maximum amount of indebtedness secured by this Mortgage is \$2,000,000.

6.49 Embargoed Person. At all times throughout the term of the Loan, (a) none of the funds or assets of any Essential Party that are used to repay the Loan or of Mortgagor shall constitute property of, or shall be beneficially owned directly or, to Mortgagor's best knowledge, indirectly, by any person subject to sanctions or trade restrictions under United States law ("Embargoed Person" or "Embargoed Persons") that are identified on (1) the "List of Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control (OFAC), U.S. Department of the Treasury, and/or to Mortgagor's best knowledge, as of the date thereof, based upon reasonable inquiry by Mortgagor, on any other similar list maintained by OFAC pursuant to any authorizing statute including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Order or regulation promulgated thereunder, with the result that the investment in Mortgagor or any Essential Party, as applicable (whether directly or indirectly), is prohibited by law, or the Loan made by Mortgagee would be in violation of law, or (2) Executive Order 13224 (September 23, 2001) issued by the President of the United States ("Executive Order Blocking Mortgaged Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"), any related enabling legislation or any other similar Executive Orders, and (b) no Embargoed Person shall have any direct interest, and to Mortgagor's best knowledge, as of the date hereof, based upon reasonable inquiry by Mortgagor, indirect interest, of any nature whatsoever in Mortgagor or any Essential Party, as applicable, with the result that the investment in Mortgagor or any Essential Party, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

6.50 Anti-Money Laundering. At all times throughout the term of the Loan, including after giving effect to any transfers permitted pursuant to the Loan Documents, none of the funds of Mortgagor or any Essential Party, as applicable, that are used to repay the Loan shall be derived from any unlawful activity, with the result that the investment in Mortgagor or any Essential Party, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

6.51 Cross-Collateralization; Waivers; Release of Property

(a) Mortgagor acknowledges that Mortgagee has made the Loan to Borrower upon the security of their collective interest in the Property and the Grenville Property (each an "Individual Property and, collectively, the "Total Property") and in reliance upon the aggregate of the Total Property taken together being of greater value as collateral security than the sum of each

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Individual Property taken separately. Mortgagor agrees that the Mortgages are and will be cross collateralized and cross-defaulted with each other so that (i) an Event of Default under any of the Mortgages shall constitute an Event of Default under the Grenville Mortgage and Security Documents which secure the Note; (ii) an Event of Default under the Note or this Mortgage shall constitute an Event of Default under the Grenville Mortgage and each Security Document; (iii) each Mortgage and Security Document shall constitute security for the Note as if a single blanket lien were placed on all of the Total Property as security for the Note; and (iv) such cross-collateralization shall in no event be deemed to constitute a fraudulent conveyance.

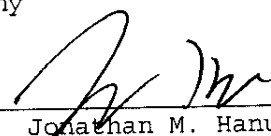
(b) To the fullest extent permitted by law, Mortgagor for itself and its successors and assigns, waives all rights to a marshalling of the assets of Mortgagor, Mortgagor's partners or members, and others with interests in Mortgagor and of the Property, or to a sale in inverse order of alienation in the event of foreclosure of all or any of the Security Documents, and agrees not to assert any right under any laws pertaining to the marshalling of assets, the sale in inverse order of alienation, homestead exemption, the administration of estates of decedents, or any other matters whatsoever to defeat, reduce or affect the right of Mortgagee under the Loan Documents to a sale of any of the Individual Properties for the collection of Mortgagor's indebtedness hereunder or under any other Loan Documents without any prior or different resort for collection or of the right of Mortgagee to the payment of such indebtedness out of the net proceeds of any of the Individual Properties in preference to every other claimant whatsoever. In addition, Mortgagor, for itself and its successors and assigns, waives in the event of foreclosure of any or all of the Grenville Mortgage or the Security Documents, any equitable right otherwise available to Mortgagor which would require the separate sale of the Individual Properties or require Mortgagee to exhaust its remedies against any Individual Property before proceeding against the Property; and further in the event of such foreclosure, Mortgagor does hereby expressly consents to and authorizes, at the option of Mortgagee, the foreclosure and sale either separately or together of any combination of the Individual Properties.

(c) If Borrower pays the Allocated Value with respect to the Property covered by this Mortgage pursuant to the terms of section 8(A) (5) of the Note, Mortgagee shall promptly release the Property covered by this Mortgage upon receipt of the same.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage on the day and year set forth above.

MORTGAGOR:

BALANCE PROPERTY GROUP, L.L.C.
an Illinois limited liability
company

By: 
Name: Jonathan M. Hanus
Title: President

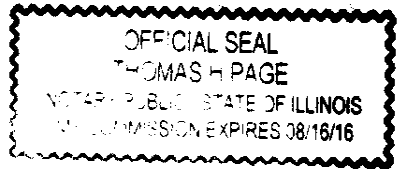
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State of Illinois)
County of Cook)

On October 15, 2012, before me, a notary public in and for said State, personally appeared Jonathan M. Hanus, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument, the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature Thomas H Page (Seal)
Capacity of Signatory Notary Public



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EXHIBIT LIST

A - Legal Description

[REDACTED]

Property of Cook County Clerk's Office

[REDACTED]

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EXHIBIT "A" LEGAL DESCRIPTION

LOTS 20, 21 AND 22 IN BLOCK 20 IN FREDERICK H. BARTLETT'S CENTRAL CHICAGO, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 4 AND THE NORTHEAST 1/4 AND THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PIN # 19-04-423-047-0000

PROPERTY STREET ADDRESS: 4558 S CICERO AVENUE, CHICAGO, ILLINOIS

AND

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY OPERATING AND EASEMENT AGREEMENT DATED FEBRUARY 26, 2008 AND RECORDED MARCH 28, 2008 AS DOCUMENT 0808844068 FOR THE PURPOSE OF: 1) THE PASSAGE AND PARKING OF VEHICLES OVER AND ACROSS THE PARKING AND DRIVEWAY AREAS OF THE FOLLOWING DESCRIBED LAND; 2) THE PASSAGE AND ACCOMMODATION OF PEDESTRIANS OVER AND ACROSS THE PARKING, DRIVEWAYS, AND SIDEWALK AREAS OF THE FOLLOWING DESCRIBED LAND; AND, 3) THE INSTALLATION, OPERATION, FLOW, PASSAGE, USE, MAINTENANCE, CONNECTION, REPAIR, RELOCATION AND REMOVAL OF UTILITY LINES OVER THE FOLLOWING DESCRIBED LAND: LOTS 13, 14, 15, 16, 17, 18 AND 19 IN BLOCK 20 IN FREDERICK H. BARTLETT'S CENTRAL CHICAGO, BEING A SUBDIVISION IN THE SOUTHEAST 1/4 OF SECTION 4, AND THE NORTHEAST 1/4 AND SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.