



1303942007

Doc#: 1303942007 Fee: \$128.00
Karen A. Yarbrough RHSP Fee: \$10.00
Cook County Recorder of Deeds
Date: 02/08/2013 08:21 AM Pg: 1 of 48

Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 14-31-208-001-0000

Address:

Street: 2157 North Damen Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60647

Lender: Hinsdale Bank and Trust Company

Borrower: MRR 2157 N. Damen, LLC

Loan / Mortgage Amount: \$3,750,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 777.0 et seq. because it is commercial property.

Box 400-CTCC

Certificate number: 06A229C8-5207-4DAF-BB9F-8FD210F0EAA3

Execution date: 08/16/2012

S Y
P 46
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SC V
INT TS

Property of Cook County Clerk's Office

8497993028K2

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Document Prepared by, and after recording to be returned to:

D. Albert Daspin, Esq.
Daspin & Aument, LLP
227 West Monroe Street, Suite 3500
Chicago, Illinois 60606

8493030
@TheACEBBB8

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT (as the same may from time to time hereafter be modified, supplemented or amended, this "**Mortgage**") is made as of January 10, 2013, by **MRR 2157 N. DAMEN LLC**, an Illinois limited liability company ("**Borrower**"), having a mailing address of 55 East Jackson Street, Suite 500, Chicago, Illinois 60604, to **HINSDALE BANK AND TRUST COMPANY**, an Illinois banking corporation ("**Lender**"), having a mailing address of 25 East First Street, Hinsdale, Illinois 60521, Attention: Mr. Mark Hale.

WITNESSETH:

WHEREAS, Borrower is the owner and holder of fee simple title in and to all of the following described real estate located in the County of Cook, State of Illinois (the "**Land**"), which real estate forms a portion of the Property (as that term is hereinafter defined) hereinafter described:

Per the Legal Description set forth in **Exhibit A** attached hereto and forming a part hereof

Property Address: 2157 North Damen Avenue
Chicago, Illinois **60647**

Permanent Index Nos: 14-31-208-001-0000
14-31-208-044-0000
14-31-208-045-0000
14-31-208-046-0000

WHEREAS, Borrower has, prior to the date hereof, executed and delivered to Lender a mortgage note dated as of August 16, 2012, made payable and delivered to Lender (as may be

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modified, amended, supplemented, extended or consolidated in writing and any note(s) issued in exchange therefor or replacement thereof, the "Note"), evidencing a loan from Lender to Borrower (the "Loan") in the total amount of THREE MILLION SEVEN HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$3,750,000.00) (that amount or so much as is outstanding from time to time is referred to as the "Principal") bearing Interest specified therein, due in installments and accrued as provided therein, with the unpaid balance and any accrued interest being due and payable on or prior to February 28, 2014, and with the terms and provisions of the Note being incorporated herein by reference with the same effect as if set forth at length.

WHEREAS, this Mortgage, the Note, the Assignment of Rents and Leases, the Environmental Indemnity, the Guaranty, the Borrower Pledge Agreement, the Assignment of Loan Documents, the Property Manager Subordination and all other documents or instruments executed and/or delivered as additional evidence of or security for repayment of the Loan, whether now or hereafter existing, together with all renewals, amendments, supplements, restatements, extensions and modifications thereof and thereto, are hereinafter sometimes collectively referred to as the "Loan Documents." The terms and provisions of the other Loan Documents are hereby incorporated herein by this reference.

WHEREAS, in consideration of advances, credits and other financial accommodations heretofore or hereinafter made to Borrower by Lender, Lender has required Borrower hereby to deliver, pledge, assign, transfer, mortgage and warrant to Lender the Property as security for the timely payment of the Debt as and when required and the timely performance of all other Obligations under the Loan Documents.

ARTICLE I DEFINITIONS

Section 1.1. Definitions. Capitalized terms used in this Mortgage shall have the meanings as set forth herein or in Exhibit B attached hereto and made a part hereof or, to the extent not defined herein or Exhibit B, shall have the meanings ascribed to such terms in the Loan Documents or, if not defined therein, in the Uniform Commercial Code.

ARTICLE II GRANTING CLAUSES

NOW, THEREFORE, to secure the payment of the principal of and interest on the Note according to its tenor and effect, and to secure the payment of any additional advances made by Lender in connection with the Property or the Loan and all other sums which may at any time be due and owing or required to be paid as herein provided or in the Note or the other Loan Documents (the "Debt"), and the performance and observance of all of the covenants, agreements and provisions herein and in the Note and the other Loan Documents contained, and in consideration of the premises and of the extension of credit by the Lender to the Borrower, as evidenced by the above described Note and other Loan Documents, and for other good and valuable considerations, the receipt and sufficiency whereof are hereby acknowledged by the Borrower, the Borrower DOES HEREBY

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GRANT, DEMISE, RELEASE, ALIEN, MORTGAGE and CONVEY unto Lender, its successors and assigns forever, the Land, together with all of the following property (collectively, together with the Land, the "**Property**"):

A. All right, title and interest of Borrower, including any after-acquired title or reversions, in and to the beds of the ways, streets, avenues and alleys adjoining the Land.

B. All and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water courses, riparian rights, other rights, liberties and privileges thereof or in any way now or hereafter appertaining to the Land or the Improvements, including any other claim at law or in equity as well as any after-acquired title, franchise or license and the reversions and remainder and remainders thereof.

C. All buildings and improvements of every kind and description now or hereafter erected or placed on the Land, and all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected the Land, all of which materials shall be deemed to be included within the Land or such buildings or improvements immediately upon the delivery thereof to the Land or such buildings or improvements, and all fixtures and articles of personal property now or hereafter owned by Borrower and attached to or forming a part of or used in connection with the Land or the operation and convenience of any building or buildings and improvements located thereon, including, but without limitation, all furniture, furnishings, equipment, apparatus, machinery, motors, elevators, fittings, screens, awnings, partitions, carpeting, curtains and drapery hardware used or useful in the operation and/or convenience of the Land or such buildings or improvements thereon and all plumbing, electrical, heating, lighting, ventilating, refrigerating, incineration, air-conditioning and sprinkler equipment, systems, fixtures and conduits (including, but not limited to, all furnaces, boilers, plants, units, condensers, compressors, ducts, apparatus and hot and cold water equipment and system), and all renewals or replacements thereof or articles in substitution therefor, in all cases whether or not the same are or shall be attached to said building or buildings in any manner (collectively, the "**Improvements**"), it being mutually agreed that all of the aforesaid property owned by Borrower and placed on the aforesaid realty shall, so far as permitted by law, be deemed to be fixtures, a part of the Improvements and the realty, and security for the Debt. Notwithstanding the agreement and declaration hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as such term is defined in the Uniform Commercial Code as in effect from time to time in the jurisdiction where the Land is located or, to the extent required by the Uniform Commercial Code, where the Borrower is located, as applicable (the "**Uniform Commercial Code**")), this instrument shall constitute a security agreement, creating a security interest in such goods as collateral, in Lender as a secured party, all in accordance with the Uniform Commercial Code as more particularly set forth in Article IV hereof.

D. All right, title, estate and interest of the Borrower in and to the Land, Improvements and other property, furniture, furnishing, apparatus and fixtures hereby conveyed, assigned, pledged

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and hypothecated, or intended so to be, and all right to retain possession of the Land and Improvements after default in payment or breach of any covenant herein contained.

E. All General Intangibles (including Software) and Goods, related to, attached to, contained in or used in connection with the Land or the Improvements (excluding personal property owned by current or future tenant).

F. All present and future leases, subleases, licenses and other agreements for the use and occupancy of the Land and Improvements, any related guarantees and any use and occupancy arrangements created pursuant to Section 365(h) of the Bankruptcy Code or otherwise in connection with the commencement or continuation of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar Proceedings, or any assignment for the benefit of creditors, in respect of any tenant or other occupant of the Land and Improvements (collectively, the "Leases"); and all present and future rents, prepaid rents, percentage, participation or contingent rents, issues, profits, proceeds, parking fees, revenues and other consideration accruing under or in connection with the Leases or otherwise derived from the use and occupancy of the Land or the Improvements, including tenant contributions to expenses, security deposits and royalties, if any, all other fees, charges, accounts, accounts receivable or payments payable to or for the benefit of Borrower, including liquidated damages after a default under a Lease, any termination, cancellation, modification or other fee or premium payable by a tenant for any reason and any payments received pursuant to Section 502(b) or Section 365 of the Bankruptcy Code or otherwise in connection with the commencement or continuance of any bankruptcy, reorganization, arrangement, insolvency, dissolution, receivership or similar proceedings, or any assignment for the benefit of creditors, in respect of any tenant or other occupant of the Land or the Improvements and all claims as a creditor in connection with any of the foregoing (collectively, the "Rents").

G. All agreements, ground leases, grants of easements or rights-of-way, permits, declarations of covenants, conditions and restrictions, disposition and development agreements, planned unit development agreements, cooperative, condominium or similar ownership or conversion plans, management, leasing, brokerage or parking agreement, or other material documents affecting Borrower or the Land or Improvements (or any portions thereof), but expressly excluding the Leases (the "Property Documents").

H. All Accounts, Documents, Goods, Instruments, money, Deposit Accounts, Chattel Paper, Letter-of-Credit Rights, Investment Property and Supporting Obligations relating to the Land, Improvements or any part thereof, including all deposits held from time to time by the Accumulations Depository to provide reserves for Taxes and Assessments together with interest thereon, if any (the "Accumulations").

I. All awards and other compensation heretofore or hereafter to be made to the present and all subsequent owners of the Land or Improvements for any Condemnation of all or any part of the Land, Improvements or any part thereof or any easement or appurtenance thereof, including severance and consequential damage and change in grade of streets, which said awards and compensation are hereby assigned to Lender, and Borrower hereby designates Lender as its agent and

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directs and empowers Lender, at the option of the Lender, on behalf of Borrower, or the successors or assigns of Borrower, to adjust or compromise the claim for any award and to collect and receive the proceeds thereof, to give proper receipts and acquitances therefor, and, after deducting expenses of collection, to apply the net proceeds as a credit upon any portion, as selected by Lender, of the Debt, notwithstanding the fact that the amount owing thereon may then be due and payable or that the indebtedness is otherwise adequately secured, all subject to the provisions of Section 9.4 hereof (the "**Condemnation Awards**").

J. All proceeds of and all unearned premiums on the Policies (the "**Insurance Proceeds**"), and all judgments, awards of damages and settlements that may result from any damage to all or any portion of the property described in this Article II or any rights appurtenant thereto.

K. All licenses, certificates of occupancy, contracts, management agreements, operating agreements, operating covenants, franchise agreements, permits and variances relating to the Land, Improvements or any part thereof.

L. All books, records and other information, wherever located, that are related to property described in this Article II (but excluding any equipment and personal property owned by any current or future tenant).

M. All after-acquired title to or remainder or reversion in any of the property described in this Article II; all sales and other proceeds, replacements, substitutions, products, accessions and increases of or for property described in this Article II; all additions, accessions and extensions to, improvements of or for property described in this Article II; and all additional lands, estates, interests, rights or other property acquired by Borrower after the date of this Mortgage for use in connection with the Land or the Improvements, all without the need for any additional mortgage, assignment, pledge or conveyance to Lender, but Borrower will execute and deliver to Lender, upon Lender's request, any documents requested by Lender to further evidence the foregoing.

TO HAVE AND TO HOLD the Property, with the appurtenances, and fixtures, unto the Lender, its successors and assigns, forever, for the purposes and upon the uses and purposes herein set forth together with all right to possession of the Property after any default in the payment of all or any part of the Debt, or the breach of any covenant or agreement herein contained, or upon the occurrence of any Event of Default as hereinafter defined; the Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

PROVIDED, NEVERTHELESS, this Mortgage is made on the express condition that if Borrower pays and performs the Obligations in full in accordance with the Loan Documents, then, unless expressly provided otherwise in the Loan Documents, the Loan Documents will be released at Borrower's expense.

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ARTICLE III ASSIGNMENT OF RENTS AND LEASES

Section 3.1. Assignment of Rents and Leases. Pursuant to that certain Assignment of Rents and Leases as of even date herewith executed and delivered by Borrower to Lender (the "Assignment of Rents and Leases"), the terms and provisions of which being incorporated herein by reference with the same effect as if set forth at length, Borrower has assigned to Lender all Rents and Leases as additional security for the Loan.

Section 3.2. Leasing Matters.

(a) Right to Enter into Lease Documents. Subject to the provisions of the Assignment of Rents and Leases, Borrower may: (i) enter into new Leases for space at the Property; (ii) renew or extend existing Leases; (iii) amend or supplement any Lease or waive any term thereof (including, without limitation, shortening the lease term, reducing rents, granting rent abatements, or accepting a surrender of all or any portion of the leased space); (iv) cancel or terminate any Lease; (v) consent to a tenant's assignment of its Lease or subleasing of space; or (vi) amend, supplement, waive or terminate any guaranty to any Lease, in each case only upon Lender's prior written consent at Borrower's expense (including reasonable legal fees and expenses). Upon request from time to time, Borrower shall promptly deliver to Lender: (i) a copy of each Lease or other instrument described above entered into after the date hereof, together with written certification from Borrower which confirms that the copy delivered is a true, complete and correct copy of such Lease; and (ii) a rent roll in form acceptable to Lender, summarizing the primary terms of each Lease then in force at the Property.

(b) Observance of Lessor Obligations. Subject to the provisions of the Assignment of Rents and Leases, Borrower (i) shall observe and perform all obligations imposed upon the lessor under the Leases and shall not do or permit to be done anything to impair the value of any of the Leases as security for the Loan; (ii) shall promptly send copies to Lender of all notices of default which Borrower shall send or receive (or may have sent or received) under any Lease; (iii) shall enforce in a commercially reasonable manner all of the material terms, covenants and conditions contained in the Leases to be observed or performed by the tenant; (iv) shall not collect any Rents more than one (1) month in advance (and for this purpose a security deposit shall not be deemed rent collected in advance); and (v) shall not execute any assignment or pledge of the lessor's interest in any of the Leases or the Rents (other than in connection with the Loan); and (vi) shall not permit, cause or mutually agree to the termination of any Lease without Lender's prior consent.

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ARTICLE IV SECURITY AGREEMENT

Section 4.1. Security Agreement. The Property includes both real and personal property, and this Mortgage is a real property mortgage and also a "security agreement" and a "financing statement" within the meaning of the Uniform Commercial Code. By executing and delivering this Mortgage, Borrower grants to Lender, as security for the Obligations, a security interest in the Property to the full extent that any of the Property may be subject to the Uniform Commercial Code, including but not limited to all Fixtures.

Section 4.2. Fixture Filing. This Mortgage constitutes a fixture filing under the Laws of the state in which the Property is located and for such purpose. Borrower represents, as of the date hereof, that the following information set forth in clauses (a), (e) and (f), is true and correct:

- (a) The exact legal name and address of Borrower, as "**Debtor**," is:

MRR 2157 N. DAMEN LLC
55 East Jackson Street, Suite 500
Chicago, Illinois 60604

- (b) Name and address of Lender, as "**Secured Party**," is:

Hinsdale Bank and Trust Company
25 East First Street
Hinsdale, Illinois 60521

- (c) Description of the types (or items) of property covered by this Financing Statement:

All of the property described in Article I hereof described or referred to herein and included as part of the Property, excluding any interest in the Land.

- (d) Description of real estate to which collateral is attached or upon which it is located:

Described in Exhibit A attached hereto.

- (e) Debtor's Organizational Identification Number: 04015193

(f) Debtor's chief executive office is located in the State of Illinois, and Debtor's state of organization is the State of Illinois.

Lender may file this Mortgage, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Mortgage or of any other security agreement or financing statement is sufficient as a financing statement.

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ARTICLE V OBLIGATIONS SECURED

Section 5.1. The Obligations. This Mortgage secures both the timely payment of the Debt as and when required and the timely performance of all other obligations and covenants to be performed under the Loan Documents (collectively with the Debt, the "**Obligations**").

Section 5.2. Prepayment Privilege. At such time as no Event of Default exists, Borrower shall have the privilege of making a prepayment of a portion of or the entire unpaid principal balance of the Note without premium or penalty, as provided under the Note.

ARTICLE VI TITLE AND AUTHORITY

Borrower hereby represents and warrants to and covenants with Lender as follows:

Section 6.1. Title to the Property.

(a) Borrower has and will continue to have good and marketable title in fee simple absolute to the Land, the Improvements and the Fixtures, all free and clear of liens, encumbrances and charges except the Permitted Exceptions. There are no facts or circumstances that might give rise to a lien, encumbrance or charge on the Property.

(b) Borrower owns and will continue to own all of the Property free and clear of all liens, encumbrances and charges except the Permitted Exceptions.

(c) This Mortgage is and will remain a valid and enforceable first lien on and security interest in the Property, subject only to the Permitted Exceptions.

Section 6.2. Authority.

(a) Borrower is and will continue to be (i) duly organized, validly existing and in good standing under the Laws of the state in which it was organized as set forth in Section 4.2(f) and (ii) duly qualified to conduct business, in good standing, in the state where the Property is located.

(b) Borrower has or will have all approvals required by Law or otherwise and full right, power and authority to (i) own and operate the Property and carry on Borrower's business as now conducted or as proposed to be conducted; (ii) execute and deliver the Loan Documents; (iii) grant, mortgage, warrant the title to, convey, assign and pledge the Property to Lender pursuant to the provisions of this Mortgage; and (iv) perform the Obligations.

(c) The execution and delivery of the Loan Documents and the performance of the Obligations do not and will not conflict with or result in a default under any Laws or any Leases

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or Property Documents and do not and will not conflict with or result in a default under any agreement binding upon any party to the Loan Documents.

(d) The Loan Documents constitute and will continue to constitute legal, valid and binding obligations of all parties to the Loan Documents enforceable in accordance with their respective terms, except to the extent that enforceability may be affected or limited by applicable bankruptcy, insolvency and other similar debtor relief laws and principles of equity affecting the enforcement of creditors' rights generally.

(e) Borrower has not (i) merged with or into any other entity or otherwise been involved in any reorganization or (ii) acquired substantially all of the assets of any other entity where Borrower became subject to the obligations of such entity, for a period of one year ending on the date hereof, except as Borrower has disclosed any such change, merger, reorganization or acquisition to Lender in writing and delivered to Lender appropriate Uniform Commercial Code search reports in connection therewith.

Section 6.3. No Foreign Person. Borrower is not a "foreign person" within the meaning of Section 1445(f)(3) of the Code.

Section 6.4. Litigation. There are no Proceedings or investigations against or affecting Borrower or the Property, and there are no facts or circumstances that might give rise to a Proceeding or an investigation against or affecting Borrower or the Property. Borrower will give Lender prompt notice of the commencement of any Proceeding or investigation against or affecting the Property or Borrower which could have a material adverse effect on the Property or on Lender's interests in the Property or under the Loan Documents and, at Borrower's expense, will appear in and defend any such Proceeding or investigation. Borrower also will deliver to Lender such additional information relating to the Proceeding or investigation as Lender may request from time to time.

ARTICLE VII **PROPERTY STATUS, MAINTENANCE AND LEASES**

Borrower hereby represents, warrants and covenants to Lender as follows:

Section 7.1. Status of the Property.

(a) Borrower has obtained and will maintain in full force and effect all certificates, licenses, permits and approvals that are issued or required by Law or by any entity having jurisdiction over the Property or over Borrower for the Permitted Use, for occupancy and operation of the Property, for the granting of this Mortgage or for the conduct of Borrower's business on the Property in accordance with the Permitted Use.

(b) The Property is or will be serviced by all public utilities required for the Permitted Use of the Property.

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(c) All roads and streets necessary for service of and access to the Property for the current or contemplated use of the Property have been completed and are and will continue to be serviceable and physically open.

(d) The Property is free from damage caused by a Casualty.

(e) All costs and expenses of labor, materials, supplies and equipment used in the construction of the Improvements have been paid in full or will be paid when due.

Section 7.2. Maintenance of the Property. Borrower will maintain the Property in thorough repair and good and safe condition, suitable for the Permitted Use, including, to the extent necessary, replacing the Fixtures and Personal Property with property at least equal in quality and condition to that being replaced and free of liens and in accordance with all applicable Laws. Borrower will not erect any new buildings, building additions or other structures on the Land or otherwise demolish, remove or materially alter the Improvements without Lender's prior consent, which may be withheld in Lender's sole discretion.

Section 7.3. Change in Use. Borrower will use and permit the use of the Property for the Permitted Use and for no other purpose.

Section 7.4. Waste. Borrower will not commit or permit any waste, impairment or deterioration of the Property.

Section 7.5. Inspection of the Property. Subject to the rights of tenants under the Leases, Lender has the right to enter and inspect the Property on reasonable prior notice, except during the existence of an Event of Default, when no prior notice is necessary. Lender has the right to engage an independent expert to review and report on Borrower's compliance with Borrower's obligations under this Mortgage to maintain the Property, comply with Law and refrain from waste, impairment or deterioration of the Property and the alteration, demolition or removal of any of the Property except as may be permitted by the provisions of this Mortgage.

Section 7.6. Parking. Borrower will provide, maintain, police and light parking areas within the Property, including any sidewalks, aisles, streets, driveways, sidewalk cuts and rights-of-way to and from the adjacent public streets, in a manner consistent with the Permitted Use and sufficient to accommodate the greatest of: (i) the number of parking spaces required by Law; or (ii) the number of parking spaces required by the Leases and the Property Documents.

Section 7.7. Separate Tax Lot. The Land and Improvement are and will remain assessed for real estate tax purposes as one or more wholly independent tax lots, separate from any property that is not part of the Land and Improvements.

Section 7.8. Changes in Zoning or Restrictive Covenants. Borrower will not (i) initiate, join in or consent to any change in any Laws pertaining to zoning, any restrictive covenant or other restriction which would restrict the Permitted Uses for the Property; (ii) permit the Property to be used to fulfill any requirements of Law for the construction or maintenance of any improvements on property that is not part of the Property; (iii) permit the Property to be used for

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any purpose not included in the Permitted Use; or (iv) impair the integrity of the Property as a single, legally subdivided zoning lot separate from all other property.

Section 7.9. Lender's Right to Appear. Upon the occurrence and continuance of an Event of Default, Lender has the right to appear in and defend any Proceeding brought regarding the Property and to bring any Proceeding, in the name and on behalf of Borrower or in Lender's name, which Lender, in its sole discretion, determines should be brought to protect Lender's interest in the Property.

Section 7.10. Annual Budget. Not less than sixty (60) days prior to the end of each calendar year, Borrower will deliver to Lender a detailed comparative budget (the "**Budget**") for the Property for the next succeeding calendar year for Lender's approval, showing anticipated operating expenses, Insurance Premiums, Impositions, leasing commissions, capital improvement costs, tenant improvement costs and any other information Lender requests. Unless Lender notifies Borrower within sixty (60) days after Lender receives the Budget that Lender disputes information in the Budget, the Budget as submitted will constitute the Budget for the next succeeding calendar year. If Borrower concludes in good faith that a Budget needs material revision, Borrower will submit a revised Budget to Lender for Lender's approval, together with a detailed explanation of the revisions. Unless Lender notifies Borrower within sixty (60) days after Lender receives the revised Budget that Lender disputes information in the revised Budget, the revised Budget as submitted will constitute the Budget for the remainder of the then calendar year. Borrower and Lender will use reasonable efforts to resolve promptly any differences over a Budget or revised Budget. If Borrower and Lender fail to agree on a Budget or revised Budget, Borrower will continue to manage and operate the Property under the last undisputed Budget.

Section 7.11. Financial Information. Borrower shall deliver, or cause to be delivered, promptly to Lender such financial information regarding Borrower and any guarantor of the Loan from time to time as Lender may request in writing, including financial statements prepared in accordance with generally accepted accounting principles and copies of all tax returns filed by Borrower and any guarantor.

Section 7.12. No Other Indebtedness. Borrower shall not incur, assume or guaranty any indebtedness other than the Debt and except to the extent otherwise expressly permitted pursuant to the Loan Documents.

ARTICLE VIII **IMPOSITIONS AND ACCUMULATIONS**

Section 8.1 Impositions.

(a) Borrower will pay each Imposition on or before the date (the "**Imposition Penalty Date**") that is the earlier of (i) the date on which the Imposition becomes delinquent and (ii) the date on which any penalty, interest or charge for non-payment of the Imposition accrues.

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(b) Borrower will deliver to Lender a receipted bill or other evidence of payment within 30 days after such Imposition is paid.

(c) Borrower, at its own expense, may contest any Taxes or Assessments, provided that the following conditions are met:

(i) At least ten (10) days before the commencement of any contest, Borrower delivers to Lender notice of the proposed contest;

(ii) the contest is by a Proceeding promptly initiated and conducted diligently and in good faith;

(iii) there is no then existing Event of Default;

(iv) the Proceeding is permitted under and is conducted in accordance with the Leases and the Property Documents;

(v) the Proceeding precludes sale or forfeiture of the Property, and Lender will not be subject to any civil suit; and

(vi) Borrower either deposits with the Accumulations Depository reserves or furnishes a bond or other security satisfactory to Lender, in either case in an amount sufficient to pay the contested Taxes or Assessments, together with all interest and penalties or Borrower pays all of the contested Taxes or Assessments under protest.

Section 8.2. Accumulations.

(a) Borrower will make an initial deposit in an amount estimated by the Lender to pay, together with the monthly payments to be made pursuant to the next sentence, the annual Taxes and Assessments next due with respect to the Property, with such deposit to be made either at Lender or a mortgage servicer or financial institution designated or approved by Lender from time to time, acting on behalf of Lender as Lender's agent or otherwise such that Lender is the "customer", as defined in the Uniform Commercial Code, of the depository bank, with respect to the deposit account into which the Accumulations are deposited, to receive, hold and disburse the Accumulations in accordance with this Section (the "**Accumulations Depository**"). Borrower will also deposit with the Accumulations Depository: (i) on the first day of each calendar month, an amount equal to 1/12th of the annual Taxes and Assessments as determined by Lender or its designee; and (ii) upon demand, such additional amounts, as determined by Lender or its designee, as may be necessary from time to time at least fifteen (15) days prior to any Imposition Penalty Date to permit the payment of all Taxes and Assessments next due and payable by such Imposition Penalty Date from Accumulations then on deposit (when added to such additionally required amounts). At least forty-five (45) days before each Imposition Penalty Date, Borrower will deliver to the Accumulations Depository any bills and other documents that are necessary to pay the Taxes and Assessments.

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(b) The Accumulations will be applied to the payment of Taxes and Assessments. Any excess Accumulations after payment of Taxes and Assessments will be returned to Borrower or credited against future payments of the Accumulations, at Lender's election or as required by Law. If the Accumulations are not sufficient to pay Taxes and Assessments, Borrower will pay the deficiency to the Accumulations Depository within five (5) days of written notice by Lender to Borrower.

(c) The Accumulations Depository will hold the Accumulations as security for the Obligations until applied in accordance with the provisions of this Mortgage and any agreement among Borrower, Lender and the Accumulations Depository. If Lender is not the Accumulations Depository, the Accumulations Depository will deliver the Accumulations to Lender upon Lender's demand at any time after an Event of Default.

(d) If the Property is sold or conveyed other than by foreclosure or transfer in lieu of foreclosure, all right, title and interest of Borrower to the Accumulations will automatically, and without necessity of further assignment, be held for the account of the new owner, subject to the provisions of this Section and Borrower will have no further interest in the Accumulations.

(e) The Accumulations Depository will deposit all amounts received by it into a non-interest bearing account with Lender denominated as secured party, all in accordance with an agreement among Borrower, Lender and the Accumulations Depository.

(f) Lender shall pay, or to direct the Accumulations Depository to pay, any Taxes or Assessments unless Borrower is contesting the Taxes or Assessments in accordance with the provisions of this Mortgage, in which event any payment of the contested Taxes or Assessments will be made under protest in the manner prescribed by Law or, at Lender's election, will be withheld.

(g) When the Obligations have been fully satisfied, any unapplied balance of the Accumulations will be returned to Borrower. At any time after an Event of Default occurs and is continuing, Lender may apply the Accumulations as a credit against any portion of the Debt selected by Lender in its sole discretion.

ARTICLE IX **INSURANCE, CASUALTY, CONDEMNATION** **AND RESTORATION**

Section 9.1. Insurance Coverages.

(a) Borrower will carry and maintain the following insurance coverages and endorsements from and after the date of this Mortgage at Borrower's sole cost and expense:

(i) Insurance against loss or damage to the Improvements, in such amounts and with such limits as Lender may require from time to time. The coverage shall be equivalent to or better than Causes of Loss—Special Form (CP1030) as published by the Insurance Services Office ("ISO") and shall be on a replacement cost, agreed amount

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basis. Such policy shall contain a standard mortgagee clause entitling Lender to collect any and all proceeds payable under such insurance.

(ii) Commercial general liability insurance against bodily injury and property damage. Coverage shall be written on an occurrence form equivalent to or better than the occurrence form (CG0001) as published by the ISO, with minimum limits of Three Million and No/100 Dollars (\$3,000,000) each occurrence and Five Million and No/100 Dollars (\$5,000,000) general aggregate. The policy shall name Lender as an additional insured with respect to liability arising out of the Property.

(iii) Builder's risk insurance on a special perils basis for 100% of the insurable value of all construction work in place or in progress from time to time, insuring the Property and materials in storage and while in transit. Such insurance shall include replacement cost agreed amount coverage.

(iv) Flood insurance on the Property, but only to the extent the Land and Improvements is now or hereafter located in an area which has been identified by the Secretary of Housing and Urban Development as a flood hazard area and in which flood insurance has been made available under the National Flood Insurance Act of 1968, in an amount not less than the maximum limit of coverage under such Act.

(v) Upon Lender's written request, such other insurance coverages as Lender may, in its reasonable discretion, deem necessary or appropriate in such amounts, with such companies and in such form as Lender deems satisfactory.

(b) The insurance, including renewals, required under this Section will be issued on valid and enforceable policies and endorsements satisfactory to Lender (the "**Policies**"). Each Policy will contain a standard waiver of subrogation and a replacement cost endorsement and will provide that Lender will receive not less than 30 days' prior written notice of any cancellation, termination or non-renewal of a Policy or any material change other than an increase in coverage and that Lender will be named under a standard mortgage endorsement as loss payee.

(c) The insurance companies issuing the Policies (the "**Insurers**") must be authorized to do business in the state where the Property is located, must have been in business for at least five (5) years, must carry an A.M. Best Company, Inc. policy holder rating of A- or better and an A.M. Best Company, Inc. financial category rating of Class X or better and must be otherwise satisfactory to Lender. Lender may select an alternative credit rating agency and may impose different but substantially equivalent credit rating standards for the Insurers. Notwithstanding Lender's right to approve the Insurers and to establish credit rating standards for the Insurers, Lender will not be responsible for the solvency of any Insurer.

(d) Notwithstanding Lender's rights under this Article, Lender will not be liable for any loss, damage or injury resulting from the inadequacy or lack of any insurance coverage.

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(e) Borrower will comply with the provisions of the Policies and with the requirements, notices and demands imposed by the Insurers and applicable to Borrower or the Property.

(f) Borrower will pay the Insurance Premiums for each Policy prior to the expiration date of the Policy being replaced or renewed and will deliver to Lender a certificate of insurance upon request of Lender.

(g) Borrower will not carry separate insurance concurrent in kind or form or contributing in the event of loss with any other insurance carried by Borrower.

(h) Borrower will give the Insurers prompt notice of any change in ownership or occupancy of the Property. This subsection does not abrogate the prohibitions on transfers set forth in this Mortgage.

(i) If the Property is sold at a foreclosure sale or otherwise is transferred so as to extinguish the Obligations, all of Borrower's right, title and interest in and to the Policies then in force will be transferred automatically to the purchaser or transferee (or other appropriate party or parties).

Section 9.2. Insurance Proceeds. In the event of loss at the Property, Borrower shall immediately give written notice thereof to Lender, and so long as no Event of Default has occurred and is then continuing, and so long as Borrower provides Lender satisfactory evidence that the Casualty Criteria have been satisfied, Borrower is authorized and empowered to make proof of loss, to settle, adjust or compromise any claims for loss, damage or destruction under, and subject to the provisions set forth below, to collect and receive all Insurance Proceeds of, any policies of hazard and casualty insurance maintained pursuant hereto, provided, that:

(a) Borrower shall obtain Lender's prior written consent to settle and adjust any claim or loss in excess of Fifty Thousand Dollars (\$50,000.00); and (b) Lender may revoke Borrower's right to settle and adjust such loss if Borrower is not diligently prosecuting the same or is unreasonably demanding greater Insurance Proceeds than amounts being offered by the insurer. If an Event of Default has occurred and is then continuing, or if Borrower fails to provide Lender satisfactory evidence that the Casualty Criteria have been satisfied, Lender is authorized and empowered, upon its written election, to make proof of loss and to settle, adjust and compromise any such claims for Insurance Proceeds, loss, damage or destruction, exclusively in its reasonable discretion and without Borrower's consent or approval. Borrower shall reimburse Lender, on demand, for all costs and expenses, including but not limited to court costs and attorneys' fees, incurred by Lender in connection with the settlement, adjustment or compromise of such Insurance Proceeds. All Insurance Proceeds of the insurance provided pursuant to this Section are hereby absolutely and unconditionally assigned, and shall be paid, to Lender. Such proceeds shall, at Lender's option, be applied first to the payment of all costs and expenses incurred by Lender in obtaining such Insurance Proceeds, and second, the remainder (hereinafter referred to as "**Net Insurance Proceeds**") shall be applied at Lender's option, either to the reduction of the indebtedness secured by this Mortgage in such order as Lender may elect, whether then due and payable or not, or to the restoration or repair of the Improvements at the Property, without

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affecting the lien of this Mortgage or the obligations of Borrower hereunder. Interest upon the entire indebtedness secured by this Mortgage shall continue until any such Insurance Proceeds are received and applied to such indebtedness by Lender. Pending a decision as to the proper use and application of any Insurance Proceeds, and during any such restoration or repair, Lender shall deposit the same in a non-interest bearing account with Lender. If Lender elects to apply any such Insurance Proceeds to the restoration or repair of the Property, it shall not be liable for supervising such restoration or repair or for supervising the disbursement of such Insurance Proceeds therefor, but such disbursement shall proceed in accordance with Lender's then standard disbursing procedures and escrow arrangements. In such event, Borrower shall deposit with Lender, prior to commencing any such restoration or repair, the amount, if any, by which the cost of such restoration or repair, as determined by Lender, exceeds the amount of such Insurance Proceeds, which amount shall be disbursed to pay costs of such restoration and repair prior to, and in the same manner as, such Insurance Proceeds. Any surplus which may remain after payment of all costs of restoration or repair may, at the option of Lender, be applied to reduction of the Obligations, in any order which Lender may determine, whether then due and payable or not, or be paid to Borrower, as its interest may appear, the choice of application to be solely at the discretion of Lender.

Section 9.3. Use of Insurance Proceeds. Notwithstanding any provision contained in this Article IX to the contrary, so long as no Event of Default then exists hereunder, Lender shall permit the Net Insurance Proceeds to be deposited in a non-interest bearing account with Lender, and Lender shall further permit such proceeds and all interest accrued thereon (hereinafter referred to as "**Insurance Interest**") to be drawn upon to pay the costs of restoration, rebuilding or repair of the Improvements at the Property that shall have suffered the applicable loss, provided that (a) Borrower provides Lender satisfactory evidence that the Casualty Criteria have been satisfied; (b) the restoration, rebuilding or repair shall render the Improvements at the Property as nearly as possible to their condition immediately prior to the Casualty, shall be in strict accordance with the plans and specifications therefor approved by Lender; (c) the restoration, rebuilding or repair shall be commenced within sixty (60) days after the date of the loss; (d) all restoration, rebuilding and repair shall be done in a good and workmanlike manner, using materials substantially equivalent in quality and character to those used for the original improvements, in accordance with all applicable Law and Property Documents and free and clear of all liens, encumbrances or other charges other than this Mortgage and the Permitted Exceptions and shall be subject to the approval of Lender's inspecting architect (to be retained at Borrower's reasonable cost), if any; (e) Borrower has deposited with Lender, prior to the commencement of any restoration, rebuilding or repair, the amount by which the Net Insurance Proceeds will be insufficient to cover the total cost of the planned restoration, rebuilding or repair, as evidenced by an itemized certified statement by Borrower to Lender and shall be signed and sworn to by Borrower and by the general contractor and the licensed project architect for the planned restoration, rebuilding or repair, both of whom must be reasonably acceptable to Lender; and (f) Borrower proceeds diligently to promptly complete said restoration, rebuilding or repair by not later than the earlier of (i) 180 days after the date of the loss, or (ii) 60 days prior to the maturity date of the Note. If at any time during the course of any such restoration, rebuilding or repair, the amount so deposited is not sufficient, in Lender's judgment, to pay the cost of said

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restoration, rebuilding or repair, Borrower shall deposit additional funds in such account to cover the deficiency. Borrower hereby grants to Lender a security interest in all Net Insurance Proceeds and all Insurance Interest to secure payment and performance by Borrower of all of its obligations hereunder and under the Note. In the event that the Net Insurance Proceeds, plus the Insurance Interest, exceed the cost of said restoration, rebuilding or repair said excess shall be paid to Borrower, up to an amount equal to the Insurance Interest, and the remainder of said excess, if any, shall be applied, at the option of Lender, as otherwise provided for in this Article.

Section 9.4. Condemnation or Sale in Lieu Thereof. In case of a Condemnation of or damage to all or any part of the Property as a result of, or a sale thereof in lieu of or in anticipation of the exercise of the power of Condemnation, or the commencement of any proceedings or negotiations which might result in such a Condemnation, damage or sale, Borrower shall promptly give Lender written notice thereof, generally describing the nature of such taking, damage, sale, proceedings or negotiations and the nature and extent of the taking, damage or sale which has resulted or might result therefrom, as the case may be, together with a copy of each and every document relating thereto received by Borrower, and Lender shall have the right to participate in such proceedings or negotiations. Should any of the Property be taken or damaged by exercise of the power of Condemnation, or be sold by private sale in lieu or in anticipation thereof, Borrower does hereby irrevocably assign, set over and transfer to Lender, Borrower's right and interest in and to any Condemnation Award or any other award, payment or other consideration for the property so taken, damaged or sold and any claim or cause of action therefor. Such award, payment or consideration shall, at Lender's option, be applied first to the payment of all reasonable costs and expenses incurred by Lender in obtaining and preserving such award, payment or consideration, and second, at Lender's option, either to the reduction of the Loan by application thereof to said indebtedness, in such order as Lender may elect, whether then due and payable or not, or to the restoration or repair of the Property, without affecting the lien of this Mortgage or the obligations of Borrower hereunder. Lender is authorized, at its option, in the name of Borrower or in its own name, to compromise, settle, collect and receipt for all such awards, payments or consideration for the property so taken, damaged or sold. Interest upon the entire Debt shall continue until any such award, payment or consideration is received and applied by Lender to said indebtedness, and, pending a decisions as to the proper application of said award, payment or consideration, and pending the completion of any such repairs or restoration, Lender shall deposit the same in a non-interest bearing account with Lender. Borrower will, in good faith and with due diligence, file and prosecute what would, absent the Mortgage, be its claims for any such award, payment or consideration and will cause the same to be collected and paid over to Lender. In the event Borrower fails to so act or if an Event of Default then exists hereunder, Lender may, at its option, file and prosecute said claims, and Borrower agrees to pay all costs and expenses incurred by Lender in connection therewith, on demand, which costs and expenses shall also be secured hereby and shall bear interest from the date paid at the Default Interest Rate, but Lender shall not be liable to Borrower for any failure by Lender to collect or to exercise diligence in collecting any such award, payment or consideration. If Lender elects to apply any such award, payment or consideration to the restoration or repair of the Property, it shall not be liable to supervise such restoration or repair or to supervise the disbursement of such award, payment or consideration thereof, but disbursement thereof shall

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proceed in accordance with Lender's then standard disbursing procedures and escrow arrangements. In such event, Borrower shall deposit with Lender, prior to commencing any such restoration or repair, the amount, if any, by which the cost of such restoration or repair, as determined by Lender, exceeds the amount of such award, payment or consideration, which amount shall be disbursed to pay costs of such restoration and repair prior to, and in the same manner as, such award, payment or consideration. Any surplus which may remain after payment of all costs of restoration or repair may, at the option of Lender, be applied in reduction of the Debt, in any order which Lender may determine, whether then due and payable or not, or be paid to Borrower, as its interest may appear, the choice of application to be solely at the discretion of Lender. If any such Condemnation or sale includes any portion of any building constituting the Improvements, or more than ten percent (10%) by area of the Land, or so much of the Land that the remainder thereof cannot be used in the same manner and to the same extent as prior to said taking without violating some applicable Governmental requirement or any Property Documents, Lender may, at its option, declare the principal of and all accrued interest on the Note and all sums advanced hereunder, with interest, to be forthwith due and payable.

ARTICLE X

COMPLIANCE WITH LAW AND AGREEMENTS

Section 10.1. Compliance with Law. Borrower, the Property and the use of the Property comply and will continue to comply with Law and with all agreements and conditions necessary to preserve and extend all rights, licenses, permits, privileges, franchises and concessions (including zoning variances, special exceptions and non-conforming uses) relating to the Property or Borrower, at Borrower's sole cost and expense. Borrower will notify Lender of the commencement of any investigation or Proceeding relating to a possible violation of Law promptly after Borrower receives notice thereof and will deliver promptly to Lender copies of all documents Borrower receives or delivers in connection with the investigation or Proceeding. Borrower will not alter the Property in any manner that would materially increase Borrower's responsibilities for compliance with Law.

Section 10.2. Compliance with Agreements. There are no defaults, events of defaults or events which, with the passage of time or the giving of notice, would constitute an event of default under the Property Documents. Borrower will pay and perform all of its obligations under the Property Documents as and when required by the Property Documents. Borrower will not (a) amend the Property Documents, (b) exercise any options under the Property Documents, or (c) give any approval required or permitted under the Property Documents if any of the foregoing would adversely affect the Property or Lender's rights and interests under the Loan Documents; cancel or surrender any of the Property Documents; or release or discharge or permit the release or discharge of any party to or entity bound by any of the Property Documents, without, in each instance, Lender's prior written consent (excepting therefrom all service contracts or other agreements entered into in the normal course of business that are cancelable upon not more than thirty (30) days' notice). Borrower promptly will deliver to Lender copies of any notices of default or of termination that Borrower receives or delivers relating to any Property Document.

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Section 10.3. ERISA Compliance.

Borrower hereby represents, warrants and covenants to Lender as follows:

(a) Neither Borrower nor any of Borrower's constituent entities is or will be an "employee benefit plan" as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 (together with the regulations promulgated thereunder, all as in effect from time to time, "**ERISA**") that is subject to Title I of ERISA or a "plan" as defined in Section 4975(e)(1) of the Code that is subject to Section 4975 of the Code, and neither the assets of Borrower or of Borrower's constituent entities are or will constitute "plan assets" of one or more such plans for purposes of Title I of ERISA or Section 4975 of the Code.

(b) Borrower is not and will continue not to be a "governmental plan" within the meaning of Section 3(32) of ERISA and transactions by or with Borrower are not and will not be subject to any Laws regulating investments of and fiduciary obligations with respect to governmental plans.

(c) Borrower will not engage in any transaction which would cause any obligation or any action under the Loan Documents, including Lender's exercise of the Remedies, to be a non-exempt prohibited transaction under ERISA.

Section 10.4. Anti-Terrorism.

Borrower hereby represents, warrants and covenants to Lender as follows:

(a) Borrower and its respective constituents or affiliates are not in violation of any Laws relating to terrorism or money laundering, including the Executive Order and the Patriot Act.

(b) Borrower is not a Prohibited Person.

(c) Borrower is not and will not (i) conduct any business or engage in any transaction or dealing with any Prohibited Person, including the making or receiving any contribution of funds, goods or services to or for the benefit of any Prohibited Person, (ii) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to the Executive Order; or (iii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order or the Patriot Act.

(d) Borrower covenants and agrees to deliver to Lender any certification or other evidence requested from time to time by Lender in its sole discretion, confirming Borrower's compliance with this Section 10.4.

Section 10.5. Section 6045(e) Filing. Under no circumstances will Lender or Lender's counsel be obligated to file the reports or returns required by Section 6045(e) of the Code.

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ARTICLE XI EXPENSES AND DUTY TO DEFEND

Section 11.1. Payment of Expenses.

(a) Borrower is obligated to pay all fees and expenses (the "**Expenses**") incurred by Lender or that are otherwise payable in connection with the Loan, the Property or Borrower, including reasonable attorneys' fees and expenses and any reasonable and actual fees and expenses relating to (i) the preparation, execution, acknowledgment, delivery and recording or filing of the Loan Documents; (ii) any Proceeding or other claim asserted against Lender or any Proceeding described in Section 7.9 hereof; (iii) any inspection, assessment, survey and test permitted under the Loan Documents; (iv) any Casualty; (v) the preservation of Lender's security and the exercise of any rights or remedies available at Law, in equity or otherwise; (vi) administration of the Loan; (vii) the Leases and the Property Documents; and (viii) any Proceeding in or for bankruptcy, insolvency, reorganization or other debtor relief or similar Proceeding relating to Borrower, the Property or any person liable under any guarantee, indemnity or other credit enhancement delivered in connection with the Loan.

(b) Borrower will pay the Expenses promptly, together with any applicable interest, premiums or penalties. If Lender pays any of the Expenses, Borrower will reimburse Lender the amount paid by Lender immediately upon demand, together with interest on such amount at the Default Interest Rate from the date Lender paid the Expenses through and including the date Borrower reimburses Lender. The Expenses together with any applicable interest, premiums or penalties constitute a portion of the Debt secured by this Mortgage.

Section 11.2. Duty to Indemnify and Defend. If Lender or any of its trustees, officers, participants, employees or affiliates is a party in any Proceeding relating to the Property, Borrower or the Loan, Borrower will indemnify and hold harmless the party from and against any and all liabilities, obligations, claims, damages, penalties, causes of action, costs and expenses (including reasonable attorneys' fees, expenses and court costs) relating to the Property, Borrower or the Loan and incurred by or asserted against any such parties and will defend such parties with attorneys and other professionals retained by Borrower and approved by Lender. In all events, case strategy will be determined in consultation with Lender if Lender so elects and no Proceeding will be settled without Lender's prior approval which may be withheld in its reasonable discretion. Any amounts owed to Lender or any such trustees, officers, participants, employees or affiliates pursuant to this Section 11.2 shall be reimbursed by Borrower immediately upon demand, together with interest on such amount at the Default Interest Rate from the date such amounts are incurred through and including the date Borrower reimburses such party, and such amounts, together with any applicable interest, shall constitute a portion of the Debt secured by this Mortgage. The obligations of Borrower under this Section 11.2 shall survive any termination or satisfaction of this Mortgage.

Section 11.3. Stamp Tax. If at any time the United States Government or any federal, state or municipal Governmental subdivision requires Internal Revenue or other documentary stamps, levies or taxes on this Mortgage or on the Note, or requires payments of the United

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States Interest Equalization Tax on any of the Debt, then the Debt and all interest accrued thereon shall be and become due and payable, at the election of Lender, thirty (30) days after the delivery of notice of such election to Borrower; provided, however, that such election shall be unavailing, and this Mortgage and the Note shall be and remain in effect, if Borrower may and does lawfully pay for such stamps or tax, including interest and penalties thereon, to or on behalf of Lender.

Section 11.4. Changes in Tax Laws. In the event of the enactment, after the date of this Mortgage, of any Laws deducting from the value of the Property, for the purpose of taxation, the amount of any lien thereon, or imposing upon Lender the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Borrower, or changing in any way the Laws relating to the taxation of mortgages or debts secured by mortgages or Borrower's interest in the Property, or the manner of collection of taxes, so as to affect this Mortgage or the Debt or the holder thereof, then Borrower, upon demand by Lender, shall pay such taxes, assessments, charges or liens, or reimburse Lender therefor; provided, however, that if, in the opinion of counsel for Lender, it might be unlawful to require Borrower to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Lender may elect, by written notice delivered to Borrower, to declare all of the Debt to become due and payable thirty (30) days after giving of such notice. Nothing contained in this **Section 11.4** shall be construed as obligating Lender to pay any portion of Borrower's federal income tax.

ARTICLE XII

RESTRICTIONS ON TRANSFERS AND LIENS

Section 12.1. Restrictions on Transfers and Liens. It shall be an Event of Default hereunder if, without the prior written consent of the Lender, any one or more of the following shall occur:

(a) If the Borrower shall create, effect or consent to or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Property or any part thereof or interest therein, including the equity of redemption, except as provided under **Section 12.2** hereof and otherwise excepting only Permitted Exceptions and sales or other dispositions of Fixtures or Personal Property (hereinafter called "**Obsolete Collateral**") no longer useful in connection with the operation of the Property, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Fixtures or Personal Property, subject to the first and prior lien hereof, of at least equal value and utility;

(b) If the Borrower is a trustee, then if any beneficiary of the Borrower shall create, effect or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of all or any portion of such beneficiary's beneficial interest in the Borrower;

(c) If the Borrower is a corporation, or if any corporation is a beneficiary of a trustee Borrower, then if any shareholder of such corporation shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of any such shareholder's shares in such corporation; provided that if such

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corporation is a corporation whose stock is publicly traded on a national securities exchange or on the "Over The Counter" market, then this Section 12.1(c) shall be inapplicable; or

(d) If the Borrower is a partnership, limited liability company or joint venture, or if any beneficiary of a trustee Borrower is a partnership, limited liability company or joint venture, then if any partner, member or joint venturer in such partnership, limited liability company or joint venture shall create, effect or consent to or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of all or any part of the partnership interest, limited liability company interest or joint venture interest, as the case may be, of such partner, member or joint venturer.

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise; provided that the foregoing provisions of this Section 12.1 shall not apply to (i) liens securing the Debt, (ii) the lien of current taxes and assessments not in default, and (iii) any transfers of the Property, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, in the Borrower or any beneficiary of a trustee Borrower by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee. The provisions of this Section 12.1 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise shall acquire any part of or interest in or encumbrance upon the Property, or such beneficial interest in, shares of stock of, or partnership or joint venture interest in, the Borrower or any beneficiary of a trustee Borrower.

Section 12.2. Right to Contest Liens. Borrower, at its own expense, may contest the amount, validity or application, in whole or in part, of any mechanics or materialmen's liens in which event Lender will refrain from exercising any of the Remedies, provided that the following conditions are met:

- (a) Borrower delivers to Lender notice of the proposed contest not more than 30 days after the lien is filed;
- (b) the contest is by a Proceeding promptly initiated and conducted in good faith and with due diligence;
- (c) there is no Event of Default other than the Event of Default arising from the filing of the lien;
- (d) the Proceeding suspends enforcement or collection of the lien, imposition of criminal or civil penalties and sale or forfeiture of the Property and Lender will not be subject to any civil suit;
- (e) the Proceeding is permitted under and is conducted in accordance with the Leases and the Property Documents; and

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(f) Borrower sets aside reserves or furnishes a bond or other security satisfactory to Lender, in either case in an amount sufficient to pay the claim giving rise to the lien, together with all interest and penalties, or Borrower pays the contested lien under protest.

ARTICLE XIII DEFAULTS AND REMEDIES

Section 13.1. Events of Default. The term "**Event of Default**" means the occurrence of any of the following events:

- (a) if Borrower fails to pay any amount due, as and when required, under any Loan Document;
- (b) if any violation of the provisions of Section 9.1 or Section 12.1 hereof shall occur;
- (c) if Borrower makes a general assignment for the benefit of creditors or generally is not paying, or is unable to pay, or admits in writing its inability to pay, its debts as they become due; or if Borrower, any guarantor of the Loan or any other party commences any Proceeding:
- (i) relating to bankruptcy, insolvency, reorganization, conservatorship or relief of debtors, in each instance with respect to Borrower; (ii) seeking to have an order for relief entered with respect to Borrower; (iii) seeking attachment, distraint or execution of a judgment with respect to Borrower; (iv) seeking to adjudicate Borrower as bankrupt or insolvent; (v) seeking reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to Borrower or any of their respective debts; or (vi) seeking appointment of a Receiver, trustee, custodian, conservator or other similar official for Borrower or for all or any substantial part of Borrower's assets, provided that if the Proceeding is commenced by a party other than Borrower or any guarantor or any of Borrower's owners, Borrower will have sixty (60) days to have the Proceeding dismissed or discharged before an Event of Default occurs;
- (d) if there is a default beyond any applicable grace and cure period under any other of the Loan Documents;
- (e) if there is a default beyond any applicable grace and cure period under any indemnity or guaranty in favor of Lender delivered to Lender in connection with the Loan, or any such guaranty shall cease to be in full force and effect for any reason; or
- (f) if there is a default in the performance of any other provision of this Mortgage, or if there is any inaccuracy or falsehood in any representation or warranty contained in any Loan Document, in each case which is not remedied within 30 days after Borrower receives written notice thereof, provided that if the default, inaccuracy or falsehood is of a nature that it cannot be cured within the 30-day period and during that period Borrower commences to cure, and thereafter diligently continues to cure, the default, inaccuracy or falsehood, then the 30-day period will be extended for a reasonable period not to exceed 60 days after initial written notice to Borrower.

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Section 13.2. Remedies.

(a) If an Event of Default occurs, Lender may take any of the following actions (the "**Remedies**") without notice to Borrower:

- (i) declare all or any portion of the Debt immediately due and payable ("**Acceleration**");
- (ii) pay or perform any Obligation;
- (iii) institute a Proceeding for the specific performance of any Obligation;
- (iv) apply for and obtain the appointment of a Receiver to be vested with the fullest powers permitted by Law, without bond being required, which appointment may be made ex parte, as a matter of right and without regard to the value of the Property, the amount of the Debt or the solvency of Borrower or any other person liable for the payment or performance of any portion of the Obligations;
- (v) directly, by its agents or representatives or through a Receiver appointed by a court of competent jurisdiction, enter on the Land and Improvements, take possession of the Property, dispossess Borrower and exercise Borrower's rights with respect to the Property, either in Borrower's name or otherwise;
- (vi) institute a Proceeding for the foreclosure of this Mortgage of all or any portion of the Property;
- (vii) institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due;
- (viii) exercise any and all rights and remedies granted to a secured party under the Uniform Commercial Code; and
- (ix) pursue any other right or remedy available to Lender at Law, in equity or otherwise.

If an Event of Default occurs, the license granted to Borrower in the Loan Documents to collect Rents will terminate automatically without any action required of Lender.

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Section 13.3. General Provisions Pertaining to Remedies.

(a) The Remedies are cumulative and may be pursued concurrently or otherwise, at such time and in such order as Lender may determine in its sole discretion and without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Borrower.

(b) The enumeration in the Loan Documents of specific rights or powers will not be construed to limit any general rights or powers or impair Lender's rights with respect to the Remedies.

(c) If Lender exercises any of the Remedies, Lender will not be deemed a mortgagee-in-possession unless Lender has elected affirmatively to be a mortgagee-in-possession.

(d) Lender will not be liable for any act or omission of Lender in connection with the exercise of the Remedies.

(e) Lender's right to exercise any Remedy will not be impaired by any delay in exercising or failure to exercise the Remedy and the delay or failure will not be construed as extending any cure period or constitute a waiver of the default or Event of Default.

(f) If an Event of Default occurs, Lender's payment or performance or acceptance of payment or performance will not be deemed a waiver or cure of the Event of Default.

(g) Lender's acceptance of partial payment or receipt of Rents will not extend or affect any grace period, constitute a waiver of a default or Event of Default or constitute a rescission of Acceleration.

Section 13.4. General Provisions Pertaining to Receiver and other Remedies.

(a) If an Event of Default occurs, any court of competent jurisdiction will, upon application by Lender, appoint a Receiver as designated in the application and issue an injunction prohibiting Borrower from interfering with the Receiver, collecting Rents, disposing of any Rents or any part of the Property, committing waste or doing any other act that will tend to affect the preservation of the Leases, the Rents and the Property and Borrower approves the appointment of the designated Receiver or any other Receiver appointed by the court. Borrower agrees that the appointment may be made *ex parte* and as a matter of right to Lender, either before or after sale of the Property, without further notice, and without regard to the solvency or insolvency, at the time of application for the Receiver, of the person or persons, if any, liable for the payment of any portion of the Debt and the performance of any portion of the Obligations and without regard to the value of the Property or whether the Property is occupied as a homestead and without bond being required of the applicant.

(b) The Receiver will be vested with the fullest powers permitted by Law including all powers necessary or usual in similar cases for the protection, possession and operation of the Property and all the powers and duties of Lender as a mortgagee-in-possession as provided in this

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Mortgage and may continue to exercise all the usual powers and duties until the Receiver is discharged by the court.

(c) In addition to the Remedies and all other available rights, Lender or the Receiver may take any of the following actions:

(i) take exclusive possession, custody and control of the Property and manage the Property so as to prevent waste;

(ii) require Borrower to deliver to Lender or the Receiver all keys, security deposits, operating accounts, prepaid Rents, past due Rents, the books and records and all original counterparts of the Leases and the Property Documents;

(iii) collect, sue for and give receipts for the Rents and, after paying all expenses of collection, including reasonable receiver's, broker's and attorney's fees, apply the net collections in accordance with applicable law to any portion of the Debt selected by Lender in its sole discretion;

(iv) enter into, modify, extend, enforce, terminate, renew or accept surrender of Leases and evict tenants except that in the case of a Receiver, such actions may be taken only with the written consent of Lender as provided in this Mortgage and in the Assignment of Rents and Leases;

(v) enter into, modify, extend, enforce, terminate or renew Property Documents except that in the case of a Receiver, such actions may be taken only with the written consent of Lender as provided in this Mortgage and in the Assignment;

(vi) appear in and defend any Proceeding brought in connection with the Property and bring any Proceeding to protect the Property as well as Borrower's and Lender's respective interests in the Property (unless any such Proceeding has been assigned previously to Lender in the Assignment, or if so assigned, Lender has not expressly assigned such Proceeding to the Receiver and consented to such appearance or defense by the Receiver); and

(vii) perform any act in the place of Borrower that Lender or the Receiver deems necessary (A) to preserve the value, marketability or rentability of the Property; (B) to increase the gross receipts from the Property; or (C) otherwise to protect Borrower's and Lender's respective interests in the Property.

(d) Borrower appoints Lender as Borrower's attorney-in-fact, at Lender's election, to perform any actions and to execute and record any instruments necessary to effectuate the actions described in this Section, in each instance only at Lender's election and only to the extent Borrower has failed to comply with the provisions of this Section.

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Section 13.5. General Provisions Pertaining to Foreclosures. The following provisions will apply to any Proceeding to foreclose and to any sale of the Property pursuant to a judgment of foreclosure and sale:

- (a) Lender's right to institute a Proceeding to foreclose will not be exhausted by a Proceeding or a foreclosure sale that is defective or not completed;
- (b) any sale may be postponed or adjourned by Lender by public announcement at the time and place appointed for the sale without further notice;
- (c) with respect to any sale pursuant to a judgment of foreclosure, the Property may be sold as an entirety or in parcels, at one or more sales, at the time and place, on terms and in the order that Lender deems expedient in its sole discretion;
- (d) if a portion of the Property is sold pursuant to this Article, the Loan Documents will remain in full force and effect with respect to any unmatured portion of the Debt, and this Mortgage will continue as a valid and enforceable first lien on and security interest in the remaining portion of the Property, subject only to the Permitted Exceptions, without loss of priority and without impairment of any of Lender's rights and remedies with respect to the unmatured portion of the Debt;
- (e) Lender may bid for and acquire the Property at a sale and, in lieu of paying cash, may credit the amount of Lender's bid against any portion of the Debt selected by Lender in its sole discretion after deducting from the amount of Lender's bid the expenses of the sale, costs of enforcement and other amounts that Lender is authorized to deduct at Law, in equity or otherwise; and
- (f) Lender's receipt of the proceeds of a sale will be sufficient consideration for the portion of the Property sold and Lender will apply the proceeds as set forth in this Mortgage.

Section 13.6. Application of Proceeds. Lender may apply the proceeds of any sale of the Property pursuant to a judgment of foreclosure and sale and any other amounts collected by Lender in connection with the exercise of the Remedies to payment of the Debt in such priority and proportions as Lender may determine in its sole discretion or in such priority and proportions as required by Law.

Section 13.7. Power of Attorney. Borrower appoints Lender as Borrower's attorney-in-fact to perform any actions necessary and incidental to exercising the Remedies.

ARTICLE XIV WAIVERS

Section 14.1. WAIVER OF NOTICE. BORROWER WAIVES THE RIGHT TO RECEIVE ANY NOTICE FROM LENDER WITH RESPECT TO THE LOAN DOCUMENTS EXCEPT FOR THOSE NOTICES THAT LENDER IS EXPRESSLY REQUIRED TO DELIVER PURSUANT TO THE LOAN DOCUMENTS OR AS REQUIRED BY LAW.

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Section 14.2. WAIVER OF MARSHALLING AND OTHER MATTERS.

BORROWER WAIVES THE BENEFIT OF ANY RIGHTS OF MARSHALLING OR ANY OTHER RIGHT TO DIRECT THE ORDER IN WHICH ANY OF THE PROPERTY WILL BE (A) SOLD; OR (B) MADE AVAILABLE TO ANY ENTITY IF THE PROPERTY IS SOLD PURSUANT TO A JUDGMENT OF FORECLOSURE AND SALE. BORROWER ALSO WAIVES THE BENEFIT OF ANY LAWS RELATING TO APPRAISEMENT, VALUATION, STAY, EXTENSION, REINSTATEMENT, MORATORIUM, HOMESTEAD AND EXEMPTION RIGHTS OR A SALE IN INVERSE ORDER OF ALIENATION.

Section 14.3. WAIVER OF TRIAL BY JURY. BORROWER AND LENDER EACH WAIVE TRIAL BY JURY IN ANY PROCEEDING BROUGHT BY OR AGAINST, OR COUNTERCLAIM OR CROSS-COMPLAINT ASSERTED BY OR AGAINST THE OTHER PARTY RELATING TO THE LOAN OR THE LOAN DOCUMENTS.

Section 14.4. WAIVER OF JUDICIAL NOTICE AND HEARING. BORROWER WAIVES ANY RIGHT BORROWER MAY HAVE UNDER LAW TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THE LOAN DOCUMENTS TO LENDER, AND BORROWER WAIVES THE RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THE LOAN DOCUMENTS ON THE GROUND (IF SUCH BE THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING.

Section 14.5. WAIVER OF SUBROGATION. BORROWER WAIVES ALL RIGHTS OF SUBROGATION TO LENDER'S RIGHTS OR CLAIMS RELATED TO OR AFFECTING THE PROPERTY OR ANY OTHER SECURITY FOR THE LOAN UNTIL THE LOAN IS PAID IN FULL AND ALL FUNDING OBLIGATIONS UNDER THE LOAN DOCUMENTS HAVE BEEN TERMINATED.

Section 14.6. GENERAL WAIVER. BORROWER ACKNOWLEDGES THAT (A) BORROWER AND BORROWER'S PARTNERS, MEMBERS OR PRINCIPALS, AS THE CASE MAY BE, ARE KNOWLEDGEABLE BORROWERS OF COMMERCIAL FUNDS AND EXPERIENCED REAL ESTATE DEVELOPERS OR INVESTORS WHO UNDERSTAND FULLY THE EFFECT OF THE ABOVE PROVISIONS; (B) LENDER WOULD NOT MAKE THE LOAN WITHOUT THE PROVISIONS OF THIS ARTICLE; (C) THE LOAN IS A COMMERCIAL OR BUSINESS LOAN UNDER THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED, NEGOTIATED BY LENDER AND BORROWER AND THEIR RESPECTIVE ATTORNEYS AT ARMS LENGTH; AND (D) ALL WAIVERS BY BORROWER IN THIS ARTICLE HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER BORROWER FIRST HAS BEEN INFORMED BY COUNSEL OF BORROWER'S OWN CHOOSING AS TO POSSIBLE ALTERNATIVE RIGHTS, AND HAVE BEEN MADE AS AN INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A KNOWN RIGHT AND PRIVILEGE. THE FOREGOING ACKNOWLEDGMENT IS MADE WITH THE INTENT THAT LENDER

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AND ANY SUBSEQUENT HOLDER OF THE NOTE WILL RELY ON THE ACKNOWLEDGMENT.

ARTICLE XV NOTICES

Section 15.1. Notices. All acceptances, approvals, consents, demands, notices, requests, waivers and other communications (the "**Notices**") required or permitted to be given under the Loan Documents must be in writing and (a) delivered personally by a process server providing a sworn declaration evidencing the date of service, the individual served, and the address where the service was made; (b) sent by certified mail, return receipt requested; or (c) delivered by nationally recognized overnight delivery service that provides evidence of the date of delivery (for next business morning delivery if sent by overnight delivery service), in all cases with charges prepaid, addressed to the appropriate party at its address listed below:

If to Lender:

Hinsdale Bank and Trust Company
25 East First Street
Hinsdale, Illinois 60521
Attention: Mr. Mark Haie

with a copy to:

Daspin & Aument, LLP
227 West Monroe Street, Suite 3500
Chicago, Illinois 60606
Attention: D. Albert Daspin, Esq.

If to Borrower:

MRR 2157 N. DAMEN, LLC
55 East Jackson Street, Suite 500
Chicago, Illinois 60604
Attention: Mr. Gerald Nudo

with a copy to:

Barnett P. Ruttenberg, Esq.
824 Judson Avenue
Highland Park, Illinois 60035

Lender and Borrower each may change from time to time the address to which Notices must be sent, by notice given in accordance with the provisions of this Section. All Notices given in accordance with the provisions of this Section will be deemed to have been received on the earliest of (i) actual receipt; (ii) Borrower's rejection of delivery; or (iii) three (3) Business Days after having been deposited in any mail depository regularly maintained by the United States

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postal service, if sent by certified mail, or one (1) Business Day after having been deposited with a nationally recognized overnight delivery service, if sent by overnight delivery or on the date of personal service, if served by a process server.

Section 15.2. Change in Borrower's Legal Name, Place of Business or State of Formation. Borrower will notify Lender in writing prior to any change in Borrower's legal name, place of business or state of organization.

ARTICLE XVI MISCELLANEOUS

Section 16.1. Applicable Law and Litigation. The Loan Documents are governed by and will be construed in accordance with the Laws of the state in which the Property is located without regard to conflict of law provisions, except to the extent that the Uniform Commercial Code requires otherwise. ALL DISPUTES BETWEEN THE BORROWER AND THE LENDER, WHETHER SOUNDING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE RESOLVED ONLY BY THE STATE COURTS LOCATED WITHIN COOK COUNTY, ILLINOIS, THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, AND THE COURTS TO WHICH AN APPEAL THEREFROM MAY BE TAKEN; PROVIDED, HOWEVER, THAT THE LENDER SHALL HAVE THE RIGHT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO PROCEED AGAINST THE BORROWER OR ITS PROPERTY IN ANY LOCATION REASONABLY SELECTED BY THE LENDER IN GOOD FAITH TO ENABLE THE LENDER TO REALIZE ON SUCH PROPERTY OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF THE LENDER. BORROWER WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT IN WHICH THE LENDER HAS COMMENCED A PROCEEDING (AS AFORESAID), INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON FORUM NON CONVENIENS.

Section 16.2. Usury Limitations. Borrower and Lender intend to comply with all Laws with respect to the charging and receiving of interest. Any amounts charged or received by Lender for the use or forbearance of the Principal to the extent permitted by Law, will be amortized and spread throughout the term of the Loan until payment in full so that the rate or amount of interest charged or received by Lender on account of the Principal does not exceed the Maximum Interest Rate. If any amount charged or received under the Loan Documents that is deemed to be interest is determined to be in excess of the amount permitted to be charged or received at the Maximum Interest Rate, the excess will be deemed to be a prepayment of Principal when paid, without premium, and any portion of the excess not capable of being so applied will be refunded to Borrower. If during the term of the Loan the Maximum Interest Rate, if any, is eliminated, then for the purposes of the Loan, there will be no Maximum Interest Rate.

Section 16.3. Lender's Discretion. Wherever under the Loan Documents any matter is required to be satisfactory to Lender, Lender has the right to approve or determine any matter or Lender has an election, Lender's approval, determination or election will be made in Lender's reasonable discretion unless expressly provided to the contrary.

Section 16.4. Unenforceable Provisions. If any provision in the Loan Documents is found to be illegal or unenforceable or would operate to invalidate any of the Loan Documents,

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then the provision will be deemed expunged and the Loan Documents will be construed as though the provision was not contained in the Loan Documents and the remainder of the Loan Documents will remain in full force and effect.

Section 16.5. Survival of Borrower's Obligations. Borrower's representations, warranties and covenants contained in the Loan Documents will continue in full force and effect and survive (a) satisfaction of the Obligations; (b) release of the lien of this Mortgage; (c) assignment or other transfer of all or any portion of Lender's interest in the Loan Documents or the Property; (d) Lender's exercise of any of the Remedies or any of Lender's other rights under the Loan Documents; (e) amendments to the Loan Documents; and (f) any other act or omission that might otherwise be construed as a release or discharge of Borrower.

Section 16.6. Relationship Between Borrower and Lender; No Third Party Beneficiaries.

(a) Lender is not a partner of or joint venturer with Borrower or any other entity as a result of the Loan or Lender's rights under the Loan Documents; the relationship between Lender and Borrower is strictly that of creditor and debtor. Each Loan Document is an agreement between the parties to that Loan Document for the mutual benefit of the parties and no entities other than the parties to that Loan Document will be a third party beneficiary or will have any claim against Lender or Borrower by virtue of the Loan Document. As between Lender and Borrower, any actions taken by Lender under the Loan Documents will be taken for Lender's protection only, and Lender has not and will not be deemed to have assumed any responsibility to Borrower or to any other entity by virtue of Lender's actions.

(b) All conditions to Lender's performance of its obligations under the Loan Documents are imposed solely for the benefit of Lender. No entity other than Lender will have standing to require satisfaction of the conditions in accordance with their provisions or will be entitled to assume that Lender will refuse to perform its obligations in the absence of strict compliance with any of the conditions.

Section 16.7. Partial Releases; Extensions; Waivers. Lender may: (a) release any part of the Property or any entity obligated for any of the Obligations; (b) extend the time for payment or performance of any of the Obligations or otherwise amend the provisions for payment or performance by agreement with any entity that is obligated for the Obligations or that has an interest in the Property; (c) accept additional security for the payment and performance of the Obligations; and (d) waive any entity's performance of an Obligation, release any entity or individual now or in the future liable for the performance of the Obligation or waive the exercise of any Remedy or option. Lender may exercise any of the foregoing rights without notice, without regard to the amount of any consideration given, without affecting the priority of the Loan Documents, without releasing any entity not specifically released from its obligations under the Loan Documents, without releasing any guarantor(s) or surety(ies) of any of the Obligations, without effecting a novation of the Loan Documents and, with respect to a waiver, without waiving future performance of the Obligation or exercise of the Remedy waived. All persons now or at any time hereafter liable therefor, or interested in the Property, shall be held to assent to any such extension, variation, waiver or release, and their liability, and the lien, and all provisions hereof, shall continue in full force and effect; the right of recourse against all such persons being expressly reserved by the Lender, notwithstanding any such extension, variation or

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release. Any person, firm or corporation taking a junior mortgage, or other lien upon the Property or any interest therein, shall take the said lien subject to the rights of the Lender to amend, modify and supplement this Mortgage, the Note, and the Assignment of Rents and Leases herein referred to, and to extend the maturity of the Debt, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage losing its priority over the rights of any such junior lien.

Section 16.8. Service of Process. Borrower and Lender irrevocably consent to service of process by registered or certified mail, postage prepaid, return receipt requested, to Borrower and Lender, respectively, at its address set forth in the Article entitled "**Notices**".

Section 16.9. Entire Agreement. Oral agreements or commitments between Borrower and Lender to lend money, to extend credit or to forbear from enforcing repayment of a debt, including promises to extend or renew the debt, are not enforceable. Any agreements between Borrower and Lender relating to the Loan are contained in the Loan Documents, which contain the complete and exclusive statement of the agreements between Borrower and Lender, except as Borrower and Lender may later agree in writing to amend the Loan Documents. The language of each Loan Document will be construed as a whole according to its fair meaning and will not be construed against the party by or for whom it was drafted.

Section 16.10. No Oral Amendment. The Loan Documents may not be amended, waived or terminated orally nor by any act or omission made individually by Borrower or Lender but may be amended, waived or terminated only by a written document signed by the party against which enforcement of the amendment, waiver or termination is sought.

Section 16.11. Lost or Destroyed Note. If the Note is lost, mutilated, destroyed or stolen, Borrower will deliver to Lender a new, substitute note containing the same provisions as the Note, provided that Borrower is furnished with reasonably satisfactory evidence of the loss, mutilation, destruction or theft of the Note.

Section 16.12. Covenants Run with the Land. All of the covenants of this Mortgage and the Assignment of Rents and Leases run with the Land, will bind all parties hereto and all tenants and subtenants of the Land or the Improvements and their respective heirs, executors, administrators, successors and assigns, and all occupants and subsequent owners of the Property, and will inure to the benefit of Lender and all subsequent holders of the Note and this Mortgage.

Section 16.13. Time of the Essence. Time is of the essence with respect to Borrower's payment and performance of the Obligations.

Section 16.14. Subrogation. If the Principal or any other amount advanced by Lender is used directly or indirectly to pay off, discharge or satisfy all or any part of an encumbrance affecting the Property, then Lender is subrogated to the encumbrance and to any security held by the holder of the encumbrance, all of which will continue in full force and effect in favor of Lender as additional security for the Obligations.

Section 16.15. Joint and Several Liability. If Borrower consists of more than one person or entity, the obligations and liabilities of each such person or entity under this Mortgage are joint and several.

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Section 16.16. Successors and Assigns. The Loan Documents bind the parties to the Loan Documents and their respective successors, permitted assigns, heirs, administrators, executors, agents and representatives and inure to the benefit of Lender and its successors, assigns, heirs, administrators, executors, agents and representatives.

Section 16.17. Duplicates and Counterparts. Duplicate counterparts of any of the Loan Documents, other than the Note, may be executed and together will constitute a single original document.

Section 16.18. Option to Subordinate. At the option of the Lender, this Mortgage shall become subject and subordinate in whole or in part (but not with respect to priority of entitlement to Insurance Proceeds or any award in Condemnation) to any and all Leases of all or any part of the Property upon the execution by Lender and recording thereof, at any time hereafter, in the Office of the Recorder of Deeds in and for the county wherein the Property are situated, of a unilateral declaration to that effect.

Section 16.19. Rules of Construction.

(a) References in any Loan Document to numbered Articles or Sections are references to the Articles and Sections of that Loan Document. References in any Loan Document to any numbered or lettered Exhibits or Schedules are references to the Exhibits or Schedules attached to that Loan Document, all of which are incorporated in and constitute a part of that Loan Document. Article, Section, Exhibit and Schedule captions used in any Loan Document are for reference only and do not describe or limit the substance, scope or intent of that Loan Document or the individual Articles, Sections, Exhibits or Schedules of that Loan Document. The Recitals to this Mortgage are hereby incorporated in and constitute a part of this Mortgage by this reference.

(b) The terms "include", "including" and similar terms are construed as if followed by the phrase "without limitation".

(c) The terms "Land", "Improvements", "Fixtures", "Personal Property", "Condemnation Awards", "Insurance Proceeds" and "Property" are construed as if followed by the phrase "or any part thereof".

(d) Any agreement by or duty imposed on Borrower in any Loan Document to perform any obligation or to refrain from any act or omission constitutes a covenant running with the ownership or occupancy of the Land and the Improvements, which will bind all parties hereto and their respective successors and assigns, and all lessees, subtenants and assigns of same, and all occupants and subsequent owners of the Property, and will inure to the benefit of Lender and all subsequent holders of the Note and this Mortgage and includes a covenant by Borrower to cause its partners, members, principals, agents, representatives and employees to perform the obligation or to refrain from the act or omission in accordance with the Loan Documents. Any statement or disclosure contained in any Loan Document about facts or circumstances relating to the Property, Borrower or the Loan constitutes a representation and warranty by Borrower made as of the date of the Loan Document in which the statement or disclosure is contained.

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(e) The singular of any word includes the plural and the plural includes the singular. The use of any gender includes all genders.

(f) The terms "person", "party" and "entity" include natural persons, firms, partnerships, limited liability companies and partnerships, corporations and any other public or private legal entity.

(g) The term "provisions" includes terms, covenants, conditions, agreements and requirements.

(h) The term "amend" includes modify, supplement, renew, extend, replace or substitute and the term "amendment" includes modification, supplement, renewal, extension, replacement and substitution.

(i) Reference to any specific Law or to any document or agreement, including the Note, this Mortgage, any of the other Loan Documents, the Leases and the Property Documents includes any future amendments to the Law, document or agreement, as the case may be.

(j) No inference in favor of or against a party with respect to any provision in any Loan Document may be drawn from the fact that the party drafted the Loan Document.

(k) The term "certificate" means the sworn, notarized statement of the entity giving the certificate, made by a duly authorized person satisfactory to Lender affirming the truth and accuracy of every statement in the certificate. Any document that is "certified" means the document has been appended to a certificate of the entity certifying the document that affirms the truth and accuracy of everything in the document being certified. In all instances the entity issuing a certificate must be satisfactory to Lender.

(l) Any appointment of Lender as Borrower's attorney-in-fact is irrevocable and coupled with an interest. Lender may appoint a substitute attorney-in-fact. Borrower ratifies all actions taken by the attorney-in-fact but, nevertheless, if Lender requests, Borrower will specifically ratify any action taken by the attorney-in-fact by executing and delivering to the attorney-in-fact or to any entity designated by the attorney-in-fact all documents necessary to effect the ratification.

(m) Any document, instrument or agreement to be delivered by Borrower will be in form and content satisfactory to Lender.

(n) All obligations, rights, remedies and waivers contained in the Loan Documents will be construed as being limited only to the extent required to be enforceable under the Law.

(o) The unmodified word "days" means calendar days, and the term "**Business Days**" shall mean any day on which commercial banks are not authorized or required by Law to close in Hinsdale, Illinois.

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ARTICLE XVII ADDITIONAL PROVISIONS PERTAINING TO STATE LAWS

Section 17.1. Inconsistent Provisions. The provisions of this Article XVII are an integral part of this Mortgage and in the event of any inconsistencies between the terms and conditions of any other paragraph or provision of this Mortgage and this Article XVII, the terms and conditions of this Article XVII shall control.

Section 17.2. Business Loan. The proceeds of the Debt secured hereby and referred to herein shall be used solely for business purposes and in furtherance of the regular business affairs of Borrower, and the entire principal obligation secured by this Mortgage constitutes (a) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4(1)(c), and (b) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1).

Section 17.3. Illinois Mortgage Foreclosure Law. It is the intention of Borrower and Lender that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101 et seq., and with respect to such Act, Borrower agrees and covenants that:

(a) Except as provided in this Section 17.3, Borrower and Lender shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(b) Wherever provision is made in this Mortgage for insurance policies to bear Lender clauses or other loss payable clauses or endorsements in favor of Lender, or to confer authority upon to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Lender shall continue in the Lender as judgment creditor or lender until confirmation of sale.

(c) 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 the 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 rights, powers, immunities, and duties and provisions for in Sections 15-1701 and 15-1703 of the Act.

(d) Borrower acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

(e) To the full extent permitted by Law, Borrower hereby voluntarily and knowingly

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waives its statutory rights to reinstatement and redemption pursuant to 735 ILCS Section 5/15-1601(b). In addition, to the full extent permitted by Law, Borrower hereby agrees that upon the occurrence of an Event of Default and the acceleration of the principal sum secured hereby pursuant to this Mortgage, to the full extent that such rights can be lawfully waived, Borrower hereby waives and agrees not to insist upon, plead, or in any manner take advantage of, any notice of acceleration, any stay, extension, exemption, homestead, marshaling or moratorium law or any law providing for the valuation or appraisal of all or any part of the Premises prior to any sale or sales thereof under any provision of this Mortgage or before or after any decree, judgment or order of any court or confirmation thereof, or claim or exercise any right to redeem all or any part of the Premises so sold and hereby expressly waives to the full extent permitted by applicable law on behalf of itself and each and every person or entity acquiring any right, title or interest in or to all or any part of the Property, all benefit and advantage of any such laws which would otherwise be available to Borrower or any such person or entity, and agrees that neither Borrower nor any such person or entity will invoke or utilize any such law to otherwise hinder, delay or impede the exercise of any remedy granted or delegated to Lender herein but will permit the exercise of such remedy as though any such laws had not been enacted. Borrower hereby further expressly waives to the full extent permitted by applicable law on behalf of itself and each and every person or entity acquiring any right, title or interest in or to all or any part of the Premises any and all rights of redemption from any sale or any order or decree of foreclosure obtained pursuant to provisions of this Mortgage.

(f) All advances, disbursements and expenditures made or incurred by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage, or the Loan Agreement or by the Act (collectively "**Protective Advances**"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(i) all advances by Lender in accordance with the terms of this Mortgage or the Loan Agreement to: (A) preserve, maintain, repair, restore or rebuild the improvements upon the Property; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(ii) payments by Lender of (A) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (B) real estate taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(iii) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(iv) attorneys' fees and other costs incurred: (A) in connection with the

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foreclosure of this Mortgage as referred to in Section 5/15-1504(d)(2) and 5/15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of this Mortgage or arising from the interest of the Lender hereunder; or (C) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Mortgage or the Property;

(v) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 5/15-1508(b)(1) of the Act;

(vi) expenses deductible from proceeds of sale as referred to in Section 5/15-1512(a) and (b) of the Act; and

(vii) expenses incurred and expenditures made by Lender for any one or more of the following: (A) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (B) if Borrower's interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (C) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Lender takes possession of the Property imposed by Section 5/15-1704(c)(1) of the Act; (D) repair or restoration of damage or destruction in excess of available Insurance Proceeds or Condemnation Awards; (E) payments deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit or affecting the Property; (F) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (G) if the Loan secured hereby is a construction loan, costs incurred by Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (H) payments required to be paid by Borrower or Lender pursuant to any lease or other agreement for occupancy of the Property; and (I) if this Mortgage is insured, payment of Federal Housing Authority (FHA) or private mortgage insurance required to keep such insurance in force.

(g) All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate of interest payable after default under the terms of the Note.

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

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Section 17.4. Note. The Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on October 5, 2012, which Note is by this reference thereto being incorporated herein.

Section 17.5. Additional Advances. This Mortgage secures payment of such additional sums with interest thereon which may hereafter be loaned to Borrower by Lender or advanced under the any of the Loan Documents securing or evidencing the Loan, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note (provided, however, that the indebtedness secured hereby shall in no event exceed an amount equal to three hundred percent (300%) of the face amount of the Note).

Section 17.6. Pursuant to the terms of the Collateral Protection Act (815 ILCS 180/1 et seq.), Borrower is hereby notified that:

“UNLESS BORROWER PROVIDES LENDER WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, LENDER MAY PURCHASE INSURANCE AT BORROWER’S EXPENSE TO PROTECT BORROWER’S INTERESTS IN THE PROPERTY, WHICH INSURANCE MAY, BUT NEED NOT, PROTECT THE INTERESTS OF BORROWER. THE COVERAGE PURCHASED BY LENDER MAY NOT PAY ANY CLAIM MADE BY BORROWER OR ANY CLAIM MADE AGAINST BORROWER IN CONNECTION WITH THE PROPERTY. BORROWER MAY LATER CANCEL ANY INSURANCE PURCHASED BY LENDER, BUT ONLY AFTER PROVIDING LENDER WITH EVIDENCE THAT BORROWER HAS OBTAINED THE INSURANCE AS REQUIRED HEREUNDER. IF LENDER PURCHASES INSURANCE, THE BORROWER WILL BE RESPONSIBLE FOR THE COSTS OF SUCH INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES IMPOSED IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE TOTAL OBLIGATION SECURED HEREBY. THE COSTS OF SUCH INSURANCE MAY BE GREATER THAN THE COST OF INSURANCE BORROWER MAY BE ABLE TO OBTAIN FOR ITSELF.”

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IN WITNESS WHEREOF, the Borrower has caused this Mortgage to be duly signed, sealed and delivered the day and year first above written.

MRR 2157 N. DAMEN, LLC,
an Illinois limited liability company

By: *Gerald L. Nudo*
Name: Gerald L. Nudo
Title: Manager

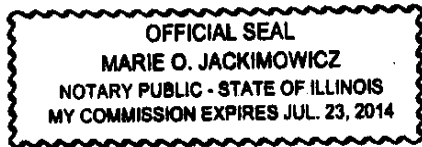
STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this, the 10th day of January, 2013, before me, the undersigned Notary Public, personally appeared Gerald L. Nudo, who acknowledged himself/herself to be a manager of MRR 2157 N. DAMEN, LLC, an Illinois limited liability company, and that as such manager being authorized to do so, executed the foregoing instrument for the uses and purposes therein contained, as his/her free and voluntary act, and as the free and voluntary act of said limited liability company.

IN WITNESS WHEREOF, I hereunder set my hand and official seal.

Marie O. Jackimowicz
Notary Public

My commission expires: 7-23-2014



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EXHIBIT A **LEGAL DESCRIPTION**

PARCEL 1:

THAT PART OF LOTS 13, 14, 15, 16, 17 AND THE EAST 8 INCHES OF LOT 18 (ALL TAKEN AS A TRACT) LYING SOUTH OF A LINE DRAWN FROM A POINT ON THE WEST LINE OF SAID TRACT WHICH IS 28.82 FEET SOUTH OF THE NORTH LINE OF LOT 18, TO A POINT ON THE SOUTH LINE OF LOT 13 WHICH IS 15.85 FEET WEST OF THE SOUTHEAST CORNER OF SAID LOT IN LAND COMPANY'S SUBDIVISION OF BLOCK 41 OF SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 31, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 18 (EXCEPT THE EAST 8 INCHES THEREOF) LOTS 19, 20, 21 AND 22 IN LAND COMPANY'S SUBDIVISION OF BLOCK 41 IN SHEFFIELD'S ADDITION TO CHICAGO, BEING A SUBDIVISION OF THE SOUTH 1/2 OF THE NORTHEAST 1/4 OF SECTION 31, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO EXCEPT FROM LOT 18 THAT PART LYING NORTH OF THE LINE DRAWN FROM A POINT ON THE WEST LINE OF SAID EAST 8 INCHES, A DISTANCE OF 22 FEET SOUTH OF THE NORTH LINE OF SAID LOT TO THE NORTHWEST CORNER OF SAID LOT, IN COOK COUNTY ILLINOIS.

Property Address: 2157 North Damen Avenue
Chicago, Illinois 60647

Permanent Index Nos: 14-31-208-001-0000
14-31-208-044-0000
14-31-208-045-0000
14-31-208-046-0000

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EXHIBIT B **DEFINITIONS**

"**Acceleration**" is defined in Section 13.2(a)(i).

"**Accumulations**" is defined in Article II(H).

"**Accumulations Depository**" is defined in Section 8.2(a).

"**Assessments**" is defined as all assessments now or hereafter levied, assessed or imposed against the Property.

"**Assignment of Loan Documents**" is defined as that certain Assignments of Loan Documents and Covenant to Mortgage dated as of August 16, 2012, executed and delivered by Borrower for the benefit of Lender relating to the collateral assignment of certain first mortgage loan documents with respect to Property, as collateral for the Loan.

"**Assignment of Rents and Leases**" is defined is defined in Section 3.1(a).

"**Bankruptcy Code**" means Title 11 of the United States Code, as amended and supplemented from time to time.

"**Borrower**" is defined in the introductory paragraph.

"**Borrower Pledge Agreement**" is defined as that certain Pledge and Security Agreement dated as of August 16, 2012, executed and delivered by Pledgor for the benefit of Lender relating to the pledge of Pledgor's membership interests in Borrower as collateral for the Loan.

"**Budget**" is defined in Section 7.10.

"**Business Days**" is defined in Section 16.19(o).

"**Casualty**" is defined as damage to or destruction of the Property by fire or other casualty.

"**Casualty Criteria**" is defined as, with respect to any Project that has suffered a Casualty: (a) the Improvements at such Project can be restored to substantially the same condition as on the date of the loss by not later than the earlier of (i) 180 days after the date of the loss, or (ii) 60 days prior to the maturity date of the Note; and (b) following completion of the restoration, rebuilding or repair of the Improvements at such Project, and in Lender's sole but reasonable discretion: (i) the ratio of the then outstanding principal balance of the Loan to the total replacement cost of the Property (including, with respect to the damaged Project, as so restored, rebuilt or repaired) shall not exceed seventy-five percent (75%); and (ii) the ratio of the then outstanding principal balance of the Loan to the then current fair market value of the Property (including, with respect to the damaged Project, as so restored, rebuilt or repaired) shall not exceed seventy-five percent (75%).

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"Code" is defined as the Internal Revenue Code of 1986 and the regulations promulgated thereunder, as amended and supplemented from time to time.

"Condemnation" is defined as the permanent or temporary taking of all or any portion of the Property, or any interest therein or right accruing thereto, by the exercise of the right of eminent domain (including any transfer in lieu of or in anticipation of the exercise of the right), inverse condemnation or any similar injury or damage to or decrease in the value of the Property, including severance and change in the grade of any streets. A Condemnation will be deemed to have occurred on the date title to the Property taken passes or if, the Condemnation is temporary, on the date Borrower no longer has use of the affected property.

"Condemnation Awards" is defined in Article II(I).

"Condemnation Proceeding" is defined as a Proceeding that could result in a Condemnation.

"Debt" is defined in Article II.

"Default Interest Rate" has the meaning ascribed to such term in the Note.

"Environmental Indemnity" is defined as that certain [Environmental Indemnity] as of even date herewith executed and delivered by Borrower and Guarantor for the benefit of Lender relating to certain hazardous material matters and activities.

"ERISA" is defined in Section 10.3(a).

"Event of Default" is defined in Section 13.1.

"Executive Order" is defined as Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, together with the regulations promulgated thereunder, all as in effect from time to time.

"Expenses" is defined in Section 11.1(a).

"Fixtures" is defined as all of the Property that constitutes "fixtures" as defined on the Uniform Commercial Code.

"Government" is defined as any federal, state or municipal governmental or quasi-governmental authority including any executive, legislative or judicial branch and any division, subdivision or agency of any of them and any entity to which any of them has delegated authority.

"Guarantor" is collectively defined as Gerald Nudo, Lawrence Weiner, Andrew Ahitow and David Ruttenberg, each an individual residing in the State of Illinois.

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"Guaranty" is defined as that certain Guaranty Agreement dated as of August 16, 2012, executed and delivered by Guarantor for the benefit of Lender relating to the certain guaranties of payment and performance of the Loan.

"Imposition Penalty Date" is defined in Section 8.1(a).

"Impositions" is defined as all Taxes, Assessments, ground rent, if any, water and sewer rents, fees and charges, levies, permit, inspection and license fees and other dues, charges or impositions, including all charges and license fees for the use of vaults, chutes and similar areas adjoining the Land, maintenance and similar charges and charges for utility services, in each instance whether now or in the future, directly or indirectly, levied, assessed or imposed on the Property or Borrower and whether levied, assessed or imposed as excise, privilege or property taxes.

"Improvements" is defined in Article II(C).

"Insurance Interest" is defined in Section 9.3.

"Insurance Premiums" is defined as all present and future premiums and other charges due and payable on policies of fire, rental value and other insurance covering the Property and required pursuant to the provisions of this Mortgage.

"Insurance Proceeds" is defined in Article II(J).

"Insurers" is defined in Section 9.1(c).

"Interest" is defined as the interest payable under the Note and any other sums which are deemed to be interest under Law.

"Land" is defined in the Recitals.

"Late Charge" is defined as the late fee payable pursuant to the terms of the Note.

"Law" is defined as all present and future codes, constitutions, cases, opinions, rules, regulations, regulations, determinations, laws, orders, ordinances, requirements and statutes, as amended, of any Government that affect or that may be interpreted to affect the Property, Borrower or the Loan, including amendments and all guidance documents and publications promulgated thereunder.

"Leases" is defined in Article II(F).

"Lender" is defined in the introductory paragraph.

"Loan" is defined in the Recitals.

"Loan Documents" is defined in the Recitals.

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"Maximum Interest Rate" is defined as the maximum rate of interest, if any, permitted by Law as of the date of this Mortgage to be charged with respect to the Loan.

"Mortgage" is defined as this Mortgage, Security Agreement and Fixture Financing Statement.

"Net Insurance Proceeds" is defined in Section 9.2.

"Note" is defined in the Recitals.

"Notices" is defined in Section 15.1.

"Obligations" is defined in Section 5.1.

"Obsolete Collateral" is defined in Section 12.1(a).

"Patriot Act" is defined as the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56), together with the regulations promulgated thereunder, all as in effect from time to time.

"Permitted Exceptions" is defined as the matters shown in Schedule B, Part 1 and 2 of the title insurance policy insuring the lien of this Mortgage for the benefit of Lender.

"Permitted Use" is defined as use of the Land and the Improvements thereon as a commercial retail shopping center, together with uses incidentally and directly related to such use.

"Personal Property" is defined as the Property, other than Fixtures, the Land or the Improvements.

"Pledgor" is collectively defined as MRR 2157 N. Damen Manager, LLC, an Illinois limited liability company, Public 2, LLC, an Illinois limited liability company, and Ronald Gertzman, a resident of the State of Illinois.

"Policies" is defined in Section 9.1(b).

"Principal" is defined in the Recitals.

"Proceeding" is defined as a pending or threatened action, claim or litigation before a legal, equitable or administrative tribunal having proper jurisdiction.

"Prohibited Person" is defined as (a) a person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001 and relating to the Executive Order; (b) a person or entity owned or controlled by, or acting for or on behalf of, any person or entity that is listed in the Annex to, or is otherwise subject to the provisions of, the Executive Order; (c) a person or entity with whom Lender is prohibited from dealing or otherwise engaging in any transaction by any terrorism or money

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laundrying Law, including the Executive Order and the Patriot Act; (d) a person or entity who commits, threatens or conspires to commit or supports "terrorism" as defined in the Executive Order; or (e) a person or entity that is named as a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Assets Control at its official website, <http://www.treas.gov/ofac/t11sdn.pdf> or at any replacement website or other replacement official publication of such list.

"Property" is defined in Article II.

"Property Documents" is defined in Article II(G).

"Property Manager" is defined as such entity as may be approved by Lender in writing as the property manager for the Property.

"Property Manager Subordination" is defined as that certain Assignment and Subordination of Management Agreement as of even date herewith executed and delivered by the Property Manager for the benefit of Lender relating to the subordination of Property Manager's lien rights to the lien of this Mortgage.

"Receiver" is defined as a receiver, custodian, trustee, liquidator or conservator of the Property.

"Remedies" is defined in Section 13.2(a).

"Rents" is defined in Article II(F).

"Taxes" is defined as all present and future real estate taxes or personal property taxes, if any, levied, assessed or imposed against the Property.

"Uniform Commercial Code" is defined in Article II(C).