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## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Doc#: 1308501038 Fee: \$92.00  
RHSP Fee:\$10.00 Affidavit Fee:  
Karen A.Yarbrough  
Cook County Recorder of Deeds  
Date: 03/26/2013 10:27 AM Pg: 1 of 28

Report Mortgage Fraud  
800-532-8785

Property of Cook County Clerk's Office

The property identified as: **PIN:** 17-08-325-022-0000

**Address:**

**Street:** 1300-08 W. Randolph

**Street line 2:**

**City:** Chicago

**State:** IL

**ZIP Code:** 60607

**Lender:** INLAND BANK & TRUST

**Borrower:** 1300 RANDOLPH LLC AND 1302-08 RANDOLPH LLC

**Loan / Mortgage Amount:** \$1,369,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 7770 et seq. because it is commercial property.

**Box 400-CTCC**

S Y  
P 28  
S N  
SC Y  
INT TV

**Certificate number:** 015A37A0-EC69-4ECE-80C6-D901DCDAE532

**Execution date:** 03/14/2013

**UNOFFICIAL COPY****AFTER RECORDING RETURN TO:**

Inland Bank & Trust  
 2805 Butterfield Road  
 Oak Brook, IL 60523  
 Attention: Sean Gallagher, Sr. V.P.

**PERMANENT INDEX NUMBER:**

17-08-325-022-0000  
 17-08-325-023-0000

**PROPERTY ADDRESS:**

1300 W. Randolph St. and  
 1302-08 W. Randolph St.  
 Chicago, IL 60607

**REAL ESTATE MORTGAGE, ASSIGNMENT OF RENTS  
 SECURITY AGREEMENT, FINANCING STATEMENT**

This Real Estate Mortgage, Assignment of Rents, Security Agreement and Financing Statement ("Mortgage") is made March 14, 2013 by **1300 RANDOLPH LLC**, an Illinois limited liability company and **1302-08 RANDOLPH LLC**, an Illinois limited liability company (each of and collectively, the "Mortgagor"), whose address is 1302 W. Randolph St., Chicago, IL 60607, to **INLAND BANK & TRUST** (the "Bank" or "Mortgagee"), whose address is 2805 Butterfield Road, Oak Brook, IL 60523.

This Mortgage is made to secure all of the following (but not exceeding \$6,000,000 in the aggregate) (individually and collectively the "Indebtedness"):

(i) Payment of that certain Mortgage Note dated March 14, 2013 from the Mortgagor, DeNovo Constructors, Inc. DeNovo Properties Holdings LLC and Jonathon K. Markoff to Mortgagee in the principal sum of One Million Three Hundred Sixty Nine Thousand and No/100 Dollars (\$1,369,000.00) with interest, which Note provides, among other things, for final payment of all amounts due thereunder, if not sooner paid or payable, to be due on or before March 14 2018 and any and all amendments, extensions, renewals, modifications, substitutions or replacements of said Note (the "Mortgage Note", which by this reference is incorporated herein); and

(ii) Payment of that certain Revolving Note dated March 14, 2013 from the Mortgagor, DeNovo Constructors, Inc. DeNovo Properties Holdings LLC and Jonathon K. Markoff to Mortgagee in the principal sum of Two Million and 00/100 Dollars (\$2,000,000.00) with interest, which Note provides, among other things, for final payment of all amounts due thereunder, if not sooner paid or payable, to be due on or before March 14, 2014 and any and all amendments, extensions, renewals, modifications, substitutions or replacements of said Note (the "Revolving Note", which by this reference is incorporated herein); and

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(iii) Payment of that certain Term Note dated March 14, 2013 from the Mortgagor, DeNovo Constructors, Inc. DeNovo Properties Holdings LLC and Jonathon K. Markoff to Mortgagee in the principal sum of Two Hundred Eighty One Thousand and 00/100 Dollars (\$281,000.00) with interest, which Note provides, among other things, for final payment of all amounts due thereunder, if not sooner paid or payable, to be due on or before March 14, 2016 and any and all amendments, extensions, renewals, modifications, substitutions or replacements of said Note (the "Term Note", which by this reference is incorporated herein)(the Mortgage Note, the Revolving Note and the Term Note are hereinafter referred to, each of and collectively, as the "Note"); and

(iv) The performance by the Mortgagor, and any guarantor or co-obligor of any Indebtedness secured hereby, of all of the covenants, agreements, conditions contained in the Note, this Mortgage and all other instruments pertaining to the repayment of the Indebtedness and any other agreement relating to the sums secured hereby and the repayment of all sums expended by the Mortgagee in connection with performance of those covenants.

As security for the purposes stated above and elsewhere in this Mortgage, the Mortgagor grants, mortgages, warrants and conveys to the Mortgagee, its successors and assigns, the lands, premises and property in the County of Cook, in the State of Illinois, described in Exhibit "A" attached hereto and incorporated by reference herein and commonly known as:

Common Address: 1300 W. Randolph St. and 1302-08 W. Randolph St., Chicago, IL 60607

Permanent Index Number: 17-08-325-022-0000, 17-08-325-023-0000

Together with:

- (a) all related easements, rights-of-way, licenses and privileges;
- (b) all buildings and improvements now or later situated under, upon or over the above described land or any part of it;
- (c) all the tenements, hereditaments, appurtenances, reversions and remainders belonging or pertaining to the above described land and also all other estate, right, title and interest of the Mortgagor in and to the above land;
- (d) all the rents, issues, profits, license fees, revenues, charges, accounts and general intangibles arising from the above described land, or relating to any business conducted by the Mortgagor on it, under present or future leases, licenses or otherwise, which are specifically assigned and transferred to the Mortgagee;
- (e) all right, title and interest of the Mortgagor in and to the land lying in the bed of any street, road, avenue, alley or walkway, opened or proposed or vacated, adjoining the above described land;

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(f) all machinery, apparatus, equipment, goods, fittings, fixtures, and articles of personal property of Mortgagor of every kind and nature, now or later located in or upon the above described land and used or useable in connection with any present or future operation of the land or any building or buildings now or later on the land and now owned or later acquired by the Mortgagor (individually and collectively the "equipment") including, without limit, all lighting, heating, cooling, ventilating, air-conditioning, incinerating, refrigerating, plumbing, sprinkling, communicating and electrical systems, and the related machinery, appliances, fixtures and equipment, and all of the right, title and interest of the Mortgagor in and to any equipment which may be subjected to any title retention or security agreement superior in lien to the lien of this Mortgage. It is understood and agreed that all equipment of Mortgagor so located is part and parcel of the mortgaged premises and appropriated to the use of the described land and, whether affixed or annexed or not, shall for the purpose of this Mortgage, unless the Mortgagee shall otherwise elect, be deemed conclusively to be real estate and mortgaged under this Mortgage;

(g) any and all awards or payments, including without limit interest on them, and the right to receive them, which may be made with respect to the mortgaged premises as a result of (i) the exercise of eminent domain, (ii) the alteration of the grade of any street, (iii) any loss of or damage to any building or other improvement on the above described land, (iv) any other injury to or decrease in the value of the mortgaged premises, (v) any refund due on account of the payment of real estate taxes, assessments or other charges levied against or imposed upon the mortgaged premises, or (vi) any refund of utility deposits or right to any tenant deposit. The reasonable attorney's fees, costs and disbursements incurred by the Mortgagee in connection with the collection of these awards or payments shall be additional Indebtedness secured by this Mortgage. The Mortgagor agrees to execute and deliver, from time to time, further instruments as may be requested by the Mortgagee to confirm the assignment to the Mortgagee of these awards or payments; and

(h) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.

Any reference in this Mortgage to the "Mortgaged Premises" shall, unless the context requires otherwise, be deemed to include and apply to the above described land, buildings, improvements, equipment, rents, issues, profits, leases, easements, tenements, hereditaments, and appurtenances, awards, payments and all other rights, privileges and interests described above. Without limiting in any way the Indebtedness secured by this Mortgage, it is agreed that this Mortgage secures future advances. The covenants, warranties and agreements of Mortgagor contained herein, to the extent permitted by law, shall be deemed to run with the land. The Mortgagor represents, warrants and covenants, which representations, warranties and covenants shall survive the execution and delivery of this Mortgage, as follows:

1. The Mortgagor will pay to the Mortgagee all Indebtedness according to the terms of the relevant instruments or agreements evidencing it, and the Mortgagor agrees that this Mortgage is a continuing mortgage securing the payment of the Indebtedness.

2. The Mortgagor is well and lawfully seized of and has good and indefeasible title to the entire Mortgaged Premises in fee simple and with good right and full power to sell, mortgage

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and convey it; the Mortgaged Premises are free and clear of all easements, restrictions, liens, leases and encumbrances whether now existing or later created, except those matters listed in Mortgagee's title insurance policies relating hereto to which this Mortgage is expressly subject, and the Mortgagor will warrant and defend the Mortgaged Premises against all other claims and demands whatsoever. The Mortgagee shall have the right at its option and at such time or times as it, in its sole discretion, deems necessary to take whatever action it may deem necessary to defend or uphold the lien of this Mortgage or otherwise enforce any of the rights of the Mortgagee under this Mortgage or any obligation secured by this Mortgage, including, without limit, the right to institute appropriate legal proceedings for these purposes.

3. (a) The Mortgagor shall pay when due, and before any interest, collection fees or penalties accrue or default occurs, all taxes, assessments, encumbrances, liens, mortgages, water or sewer charges and other charges and impositions levied, assessed or existing with respect to the Mortgaged Premises or any part of it, and will deliver to the Mortgagee without demand official receipts showing these payments. If the Mortgagor fails to pay these taxes, assessments, encumbrances, liens, mortgages, charges and impositions when due, or if the Mortgagor fails to pay all interest, collection fees and penalties accrued on them, the Mortgagee, at its sole option, may (but is not obligated to) pay them and the monies paid shall be a lien upon the Mortgaged Premises added to the amount secured by this Mortgage and payable immediately by the Mortgagor to the Mortgagee, with interest at the higher of (i) the interest rate, if any, charged by the particular entity levying or assessing the tax, assessment or imposition or holding the encumbrance or lien, or (ii) the highest rate charged by the Mortgagee on any of the indebtedness (the "Default Rate") (but in either case not to exceed the maximum interest rate permitted by applicable law).

(b) Mortgagor may, in good faith and with reasonable diligence, contest or cause to be contested the validity or amount of such items, provided that:

- (i) such contest shall have the effect of preventing the collection of the items so contested and the sale or forfeiture of the Premises or any part thereof or interest therein to satisfy the same;
- (ii) Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same or to cause the same to be contested before any item has been increased by any interest, penalties, or costs;
- (iii) Mortgagor has made all good faith estimates or other payments required by applicable law as a jurisdictional or other condition precedent to contesting the item; and
- (iv) Mortgagor has deposited or caused to be deposited with the Mortgagee, a sum of money or other security acceptable to Mortgagee that, when added to the monies or other security, if any, deposited with Mortgagee pursuant to subparagraph (c) hereof, is sufficient, in Mortgagee's reasonable judgment, to pay in full such contested item and all penalties and interest that might become due thereon, and shall keep on deposit an amount sufficient, in

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Mortgagee's judgment, to pay in full such contested item, increasing such amount to cover additional penalties and interest whenever, in Mortgagee's judgment, such increase is advisable. Such amounts deposited with Mortgagee will be placed in a corporate money market account and interest shall accrue at the applicable rate of interest then in effect.

In the event Mortgagor fails to prosecute such contest with reasonable diligence or fails to maintain sufficient funds on deposit as herein above provided, Mortgagee may, at its option, apply the monies and liquidate any securities deposited with Mortgagee, in payment of, or on account of, such item, or any portion thereof then unpaid, including all penalties and interest thereon. Provided that Mortgagor is not then in default hereunder, Mortgagee shall, if so requested in writing by Mortgagor, after final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such item, apply the money so deposited in full payment of such item or that part thereof then unpaid, together with all penalties and interest thereon. If the official bill for such item exceeds the money so deposited, then Mortgagor shall forthwith deposit monies sufficient to pay such excess. If the official bill for such item is less than the money so deposited, then Mortgagee shall forthwith remit the surplus monies to Mortgagor.

(c) The Mortgagor shall pay to the Mortgagee in advance on the first day of each month a pro rata portion (as reasonably determined by the Mortgagee) of all taxes, assessments, liens, encumbrances, mortgages, and other charges levied, assessed or existing on the Mortgaged Premises. In the event that sufficient funds have been deposited with the Mortgagee to cover the amount of these taxes, assessments, liens, encumbrances, mortgages, and other charges when they become due and payable, the Mortgagee shall pay them. In the event that sufficient funds have not been deposited to cover the amount of these taxes, assessments, liens, encumbrances, mortgages and other charges at least thirty (30) days prior to the time when they become due and payable, the Mortgagor shall immediately upon request by the Mortgagee pay the amount of the deficiency to the Mortgagee. The Mortgagee shall not be required to keep in a separate account or to pay the Mortgagor any interest or earnings whatsoever on the funds held by the Mortgagee for the payment of taxes, assessments, liens, encumbrances, mortgages, or other charges pursuant to this paragraph, or on any other funds deposited with the Mortgagee in connection with this Mortgage. If an Event of Default occurs under this Mortgage, any funds then remaining on deposit with the Mortgagee may be applied against the Indebtedness immediately upon or at any time after the Event of Default occurs, and without notice to the Mortgagor. Further, the Mortgagee may make payments from any funds on deposit with the Mortgagee for taxes, assessments, liens, encumbrances, mortgages, or other charges on or with respect to the Mortgaged Premises notwithstanding that subsequent owners of the premises may benefit as a result. The Mortgagor shall not, and nothing in this Mortgage shall be construed to give the Mortgagor the right to, mortgage or pledge the Mortgaged Premises or any part of it as security for any other indebtedness or obligations.

4. (a) The Mortgagor shall keep the buildings and all other improvements now or later existing on the Mortgaged Premises constantly insured for the benefit of the Mortgagee against fire and other hazards and risks, including without limit vandalism and malicious mischief, as the Mortgagee may reasonably require consistent with comparable commercial transactions and shall further provide flood insurance (if the Mortgaged Premises are situated in an area which is

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considered a flood risk area by the United States Department of Housing and Urban Development, and in which flood insurance has been made available under the National Flood Insurance Act of 1968, as amended), public liability insurance and any other insurance as the Mortgagee may reasonably require from time to time, all in amounts and in forms and with companies reasonably satisfactory to the Mortgagee. The Mortgagor shall deliver to the Mortgagee the policies evidencing the required insurance with premiums fully paid for one year in advance and with standard mortgagee clauses (making all loss payable to the Mortgagee) satisfactory to the Mortgagee. Renewals of the required insurance (together with evidence of premium prepayment for one year in advance) shall be delivered to the Mortgagee at least thirty (30) days before the expiration of any existing policies. All policies and renewals shall provide that they may not be canceled or amended without giving the Mortgagee thirty (30) days' prior written notice of cancellation or amendment. All policies and renewals shall be held by, and are hereby pledged to, the Mortgagee, along with all insurance premium rebates, as additional security for the Indebtedness. Should the Mortgagor fail to insure or fail to pay the premiums on any required insurance or fail to deliver the policies or renewals of them as provided above, the Mortgagee may (but is not obligated to) have the insurance issued or renewed (and pay the premiums on it for the account of the Mortgagor) in amounts and with companies and at premiums as the Mortgagee reasonably deems appropriate, in which case, the Mortgagee shall have no duty or obligation of any kind to also insure the Mortgagor's interest or to notify the Mortgagor of the Mortgagee's actions. Any premiums or other sums paid by the Mortgagee for insurance as provided above shall be a lien upon the Mortgaged Premises added to the amount secured by this Mortgage and payable immediately, with interest on these sums at the highest rate charged by the Mortgagee on any of the Indebtedness (but not to exceed the maximum interest rate permitted by applicable law). In the event of a foreclosure of this Mortgage, or the giving of a deed in lieu of foreclosure, the purchaser or grantee of the Mortgaged Premises shall succeed to all of the rights of the Mortgagor under said insurance policies including, without limit, any right to unearned premiums and to receive the proceeds.

(b) In the event of any casualty (whether or not insured against) resulting in damage to the Mortgaged Premises or any part thereof, there shall be no abatement or reduction of any sums payable by Mortgagor. No loss or damage shall itself reduce the Indebtedness. In the event of any casualty loss exceeding Fifty Thousand Dollars (\$50,000.00), Mortgagor shall give Mortgagee immediate notice thereof. Mortgagor shall adjust, collect and compromise any and all such claims, with the consent of Mortgagee, not to be unreasonably withheld or delayed, and Mortgagee shall have the right to join with Mortgagor therein. All proceeds of any insurance for a loss in excess of \$50,000.00 shall be payable to Mortgagee, to be applied first toward reimbursement of all costs and expenses of the Mortgagee in collecting the proceeds (including, without limit, court costs and reasonable attorneys' fees.) In the case of a loss in excess of \$50,000.00, each insurer is hereby authorized and directed to make payment under said policies directly to Mortgagee instead of to Mortgagor; and Mortgagor hereby appoints Mortgagee as Mortgagor's attorney-in-fact to endorse any draft therefor. The net proceeds of such insurance payment shall be retained by the Mortgagee and be used to reimburse Mortgagor for the required restoration and repair to the Mortgaged Premises ("Restoration"). Promptly after such casualty, Mortgagor shall commence and diligently continue to perform said Restoration. Upon payment to the Mortgagee of such net proceeds, the Mortgagee shall, to the extent available, make the net proceeds available to Mortgagor for Restoration, in accordance with the provisions hereof. Mortgagor shall, whether or not the net

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proceeds are sufficient for the purpose, promptly repair or replace the Mortgaged Premises as nearly as possible to their value and condition and character immediately prior to such event and otherwise in accordance with all the provisions of this Mortgage and the net proceeds of such loss shall thereupon be payable to Mortgagor, as hereinafter set forth.

(c) Provided no Event of Default exists (but not including consequences of the casualty covered by the insurance)(or an event upon the passage of time will constitute an Event of Default) and provided that Mortgagor obtain or cause its contractor to obtain completed value builder's risk insurance and that Mortgagor or its contractor shall obtain worker's compensation insurance or other adequate insurance coverage covering all persons employed in connection with the Restoration, the net proceeds paid to the Mortgagee shall be disbursed by the Mortgagor in accordance with the following conditions:

(i) At the time of any disbursement, no Event of Default shall exist and no mechanics' or materialmen's liens shall have been filed and remain undischarged and uninsured over.

(ii) The architects, contracts, contractors, plans and specifications for the Restoration shall have been approved by Mortgagee, which approval shall not be unreasonably withheld or delayed.

(iii) Each request for disbursement shall be accompanied by a certificate of Mortgagor, signed by the authorized representative of the Mortgagor, describing the completed work for which payment is requested, stating the cost incurred in connection therewith and stating that Mortgagor has not previously received payment for such work and the certificate to be delivered by Mortgagor upon completion of the work shall, in addition, state that the work has been completed and complies with the applicable requirements of this Mortgage and all legal requirements.

(iv) Disbursements shall be made from time to time in an amount not exceeding the cost of the work completed since the last disbursement upon receipt of (1) satisfactory evidence, including architects' certificates, of the stage of completion, of the estimated cost of completion and of performance of the work to date in a good and workmanlike manner in accordance with the contracts, plans and specifications approved by Mortgagee, (2) waivers of liens of those persons providing services or materials except that, provided the title insurer is willing to issue its down date endorsements and interim certifications based on so-called "after the fact" or "trailing" waivers, this requirement shall be satisfied by the delivery of a current waiver of lien from the general contractor and waivers of lien from subcontractors covering the prior draw, except that full and final waivers shall be delivered at the time of the last draw, (3) a satisfactory bring down of title insurance, and (4) other evidence of cost and payment so that Mortgagee can verify that the amounts disbursed from time to time are represented by work that is completed in place and free and clear of mechanics' lien claims. Should a lien be filed against the Mortgaged Premises, Mortgagor shall promptly, but in no event later than thirty (30) days after such lien is filed, either (a) have the lien released of record or (b) have the lien insured over in a manner reasonably acceptable to Mortgagee.

(v) The Mortgagee may retain ten percent (10 %) from each disbursement of the net proceeds until the Restoration is fifty percent (50%) completed, at which time the Mortgagee shall



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reduce the retainage to five percent (5%) and shall thereafter retain five percent (5 %) from each disbursement of the net proceeds until the Restoration is fully completed and all lien waivers have been delivered in a satisfactory form to Mortgagee and the Mortgaged Premises are available for their intended use, in the reasonable judgment of the Mortgagee, including the issuance of any necessary certificate of occupancy.

(vi) The net proceeds shall be kept in a separate interest-bearing account federally insured to the extent applicable by the Mortgagee. Prior to commencement of Restoration and at any time during Restoration, if the estimated cost of Restoration, as reasonably determined by Mortgagee, exceeds the amount of the net proceeds, Mortgagor shall give Mortgagee such assurances and take such actions as Mortgagee reasonably requires, to insure that the costs of Restoration will be paid. Any sum in the net proceeds which remains upon the completion of Restoration shall be paid to Mortgagor.

5. The Mortgagor shall abstain from commission of waste upon the Mortgaged Premises, keep the buildings, improvements and equipment on the Mortgaged Premises in good repair, and promptly comply with all laws, regulations and requirements of all governmental bodies affecting the Mortgaged Premises. If the Mortgagee reasonably determines that the Mortgaged Premises, or any part of it, requires inspection, testing, appraisal, repair, care, alteration or attention of any kind or nature, not provided to the Mortgagee's satisfaction by the Mortgagor, the Mortgagee may (but is not obligated to) after at least 24 hours prior notice thereof to Mortgagor (except that in case an emergency, no prior notice shall be required) enter or cause entry to be made upon the Mortgaged Premises, and inspect, test, appraise, repair, alter or maintain the Mortgaged Premises as the Mortgagee may reasonably deem necessary, and the Mortgagor shall reimburse the Mortgagee upon demand for all reasonably resulting costs and expenses incurred by the Mortgagee. Each such entry shall be conducted so as to minimize interference with the use, enjoyment and occupancy of the Mortgaged Premises. The Mortgagee may pay sums of money as the Mortgagee reasonably deems essential for the preservation of the Mortgaged Premises, and these sums shall be additional Indebtedness secured by this Mortgage, shall be payable by the Mortgagor to the Mortgagee upon demand, and shall bear interest at the Default Rate (but not to exceed the maximum interest rate under applicable law). The Mortgagor shall not make or permit any other party to make any material alterations, additions or improvements of any type to the Mortgaged Premises outside of customary tenant improvements or improvements required under leases (individually and collectively the "Improvements"), regardless of whether the Improvements would increase the value of the Mortgaged Premises, without the Mortgagee's prior written consent, which consent shall not be unreasonably withheld or delayed. If the Mortgagee consents to the making of any Improvements on the Mortgaged Premises, and the Improvements are not completed with due diligence in accordance with the plans and specifications approved in writing by the Mortgagee, or if construction of the Improvements should cease before completion for a period of thirty (30) days, then the Mortgagee shall have the right (but not the obligation) to enter or cause entry to be made upon the Mortgaged Premises and complete the Improvements, with full power and authority to enter into such contracts or agreements as the Mortgagee may reasonably deem necessary to complete the Improvements.

6. The Mortgagor shall promptly pay any and all obligations, liabilities or debts for

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repairs or improvements to the Mortgaged Premises or for any other goods, services, or utilities furnished to the Mortgaged Premises. The Mortgagor shall not mortgage or pledge the Mortgaged Premises or any part of it as security for any other indebtedness or obligations. The Mortgagor may contest any claim for mechanic's or other lien which would be superior to the lien of the Mortgage, provided that Mortgagor shall first deposit with Mortgagee a sum equal to one hundred percent (100%) of the amount claimed to be due or a bond supported by surety satisfactory to Mortgagee guarantying payment of any such claim prior to entry of a final order of foreclosure. In the alternative, Mortgagor may obtain and deliver to Mortgagee an endorsement to the title insurance for the Mortgaged Premises guarantying over such claim for lien and that this Mortgage is a lien superior to such claim.

7. Immediately upon obtaining knowledge of the institution of any proceeding for condemnation or taking under power of eminent domain (collectively, "Condemnation"), Mortgagor shall notify Mortgagee thereof and Mortgagee shall be entitled to participate in any such proceeding with Mortgagor paying Mortgagee's reasonable costs and expenses of such participation (including, without limit, court costs and reasonable attorneys fees). In the event of any Condemnation, there shall be no abatement or reduction of any sums payable by Mortgagor. No agreement with any condemnor in settlement of or under threat of any Condemnation shall be made by either Mortgagee or Mortgagor without the written consent of the other, which consent shall not be unreasonably withheld or delayed provided such award or payment is applied in accordance with this Mortgage. Mortgagor hereby irrevocably assigns to Mortgagee, any award or payment in respect of any Condemnation and appoints Mortgagee as Mortgagor's attorney-in-fact to endorse any draft therefor. The net proceeds of any Condemnation award or payment shall be applied to the Indebtedness whether or not then due or payable in whatever manner the Mortgagee deems advisable. Application by the Mortgagee of any condemnation award or portion of it toward the last maturing installments of the Indebtedness shall not excuse the Mortgagor from making the regularly scheduled payments nor extend or reduce the amount of these payments. Notwithstanding the foregoing, in the event of any Condemnation of part of the Mortgaged Premises, and upon the determination of the Mortgagee in its sole discretion that Restoration can occur, Mortgagee shall, to the extent received, make the net proceeds available to Mortgagor in accordance with the provisions of Paragraph 4 (c) and, promptly after such award is paid, Mortgagor shall commence and diligently continue to perform the Restoration (whether or not the net proceeds shall be sufficient to do so).

8. The Indebtedness secured by this Mortgage shall become due and payable immediately, without notice, at the option of the Mortgagee, if the Mortgagor shall sell, convey, assign, pledge, hypothecate, mortgage, encumber or transfer the Mortgaged Premises or any part of it, or if title to the Mortgaged Premises or any part of it shall become vested in any other person or party (other than a "Related Party," as defined in a certain Loan and Security Agreement between the parties of even date hereof, upon prior written notice to Mortgagee) in any manner whatsoever or if there is any disposition (through one or more transactions) of legal or beneficial title, except for those matters listed on Exhibit B, if any, and the renewal or replacement of any leases listed thereon. The foregoing restrictions shall not apply to transfers of partnership interests which do not result in a "change of control" (as such term is defined in the Loan and Security Agreement pursuant to which the Note is issued). Without limiting the foregoing, the Mortgagor shall not incur any additional debt secured by the Mortgaged Premises, without the prior written consent of Mortgagee.

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In the event ownership of the Mortgaged Premises or any part of it becomes vested in a person or persons other than the Mortgagor or a Related Party (with or without the prior written approval of the Mortgagee), the Mortgagee may (but shall not be obligated to) deal with and may enter into any contract or agreement with the successor or successors in interest with reference to this Mortgage in the same manner as with the Mortgagor, without in any manner vitiating, discharging or otherwise affecting the lien of this Mortgage or the Mortgagor's liability under this Mortgage or upon the Indebtedness.

9. This Mortgage shall, as to any equipment, fixtures, accounts, general intangibles and other personal property covered by it, be deemed to grant a security interest in the equipment, fixtures accounts, general intangibles and other personal property pursuant to the Illinois Uniform Commercial Code from time to time in effect. The Mortgagor agrees upon request of the Mortgagee from time to time, to promptly furnish a list of personal property owned by the Mortgagor and subject to this Mortgage and, upon request by the mortgagee, to immediately execute, deliver and/or file any mortgage and any amendments to this Mortgage, any separate security agreement and any financing statements to include specifically this list of personal property. The Mortgagor also hereby irrevocably authorizes the Mortgagee at any time, and from time to time, to file in any jurisdiction any financing statements, amendments and other documents and do such acts as the Mortgagee deems necessary in order to establish and maintain valid, attached and perfected first security interests in the Collateral in favor of the Mortgagee, free and clear of all Liens and claims and rights of third parties whatsoever (except as otherwise specifically set forth in Exhibit B, if any). Upon the occurrence of any event of default under this Mortgage, the Mortgagee shall have all of the rights and remedies of a secured party under the Uniform Commercial Code or otherwise provided by law or by this Mortgage including, without limit, the right to require the Mortgagor to assemble the personal property and make it available to the Mortgagee at a place to be designated by the Mortgagee which is reasonably convenient to both parties, the right to take possession of the personal property with or without demand and with or without process of law, and the right to sell and dispose of it and distribute the proceeds according to law. The Mortgagor agrees that any requirement of reasonable notice shall be met if the Mortgagee sends notice to the Mortgagor at least ten (10) days prior to the date of sale, disposition or other event giving rise to the required notice. The Mortgagor agrees that the proceeds of any disposition of the personal property may be applied by the Mortgagee first to the Mortgagee's reasonable expenses in connection with the disposition including, without limit, reasonable attorneys' fees and legal expenses, and then to payment of the Indebtedness.

10. As additional security for the payment of the Indebtedness and performance of this Mortgage, the Mortgagor assigns to the Mortgagee all its right, title and interest in and to all written and oral leases and occupancy agreements, now or later existing, covering the Mortgaged Premises or any part of it (but without an assumption by the Mortgagee of liabilities of the Mortgagor under any of these leases or occupancy agreements by virtue of this assignment), and the Mortgagor assigns to the Mortgagee the rents, issues and profits of the Mortgaged Premises. If an Event of Default which is not cured within any applicable cure period occurs under this Mortgage, the Mortgagee may receive and collect the rents, issues and profits personally or through a receiver so long as the event of default exists during the pendency of any foreclosure proceedings and during any redemption period, and all sums so collected shall be applied to the Indebtedness. The

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Mortgagor agrees to consent to the appointment of a receiver if this is reasonably believed necessary or desirable by the Mortgagee to enforce its rights under this mortgage. The Mortgagee shall at no time have any obligation whatsoever to attempt to collect rent or other amounts from any tenant or occupier of the Mortgaged Premises notwithstanding that such tenants and occupiers may not be paying rent or other amounts to either the Mortgagor or the Mortgagee. Further, the Mortgagee shall at no time have any obligation whatever to enforce any other obligations owed by tenants or occupiers of the Mortgaged Premises to the Mortgagor. No action taken by the Mortgagee under this Mortgage shall make the Mortgagee a "mortgagee in possession" until Mortgagee takes actual possession of the Mortgaged Premises pursuant to appointment. The Mortgagor shall at no time collect advance rent under any lease or occupancy agreement pertaining to the Mortgaged Premises or any part of it in excess of one month (other than as a security deposit) and the Mortgagee shall not be bound in any respect by any rent prepayment made or received in violation of this prohibition. As additional security for the Indebtedness, the Mortgagor assigns to the Mortgagee all of the Mortgagor's rights and interest in all licenses and permits affecting the Mortgaged Premises. This assignment shall not be construed as consent by the Mortgagee to any license or permit so assigned, or to impose upon Mortgagee any obligations with respect to any license or permit. The Mortgagor shall not cancel or amend any of the licenses and permits assigned (nor permit any of them to terminate if they are necessary or desirable for the operation of the Mortgaged Premises) without first obtaining the written approval of the Mortgagee. This paragraph shall not be applicable to any license or permit that terminates if it is assigned without the consent of another party (other than the Mortgagor) or its issuer, unless this consent has been obtained or this assignment is ratified by the other party or issuer; nor shall this paragraph be construed as a present assignment of any license or permit that the Mortgagor is required by law to hold in order to operate the Mortgaged Premises.

11. In the event any tax shall be due with respect to the execution and delivery or recordation of this Mortgage or any note or other instrument evidencing or securing repayment of the Indebtedness or the interest of the Mortgagee in the Mortgaged Premises, whether levied against the Mortgagee or otherwise, the Mortgagor shall pay this tax at the time and in the manner required by applicable law. The Mortgagor shall hold the Mortgagee harmless and shall indemnify the Mortgagee against all liability of any nature whatever as a result of the imposition of this tax. If in the opinion of counsel for the Mortgagee (a) it might be unlawful to require Mortgagor to make such payment or (b) the making of such payment by the Mortgagor of this tax would result in the payment of interest in excess of the permitted rate, then the Mortgagor shall have no obligation to pay the portion of the tax resulting in this excess.

12. (a) Except as otherwise set forth in the environmental reports delivered to and accepted by Mortgagee (the "Reports"), the Mortgagor represents and warrants that the Mortgagor has not used Hazardous Materials (as later defined) on or affecting the Mortgaged Premises in any manner which violates Environmental Laws (as later defined), that to Mortgagor's actual knowledge, there is no condition concerning the Mortgaged Premises which requires remediation pursuant to applicable Environmental Laws, and that, to the Mortgagor's actual knowledge, no prior owner of the Mortgaged Premises or any current or prior occupant has used Hazardous Materials on or affecting the Mortgaged Premises in any manner which violates Environmental Laws. The Mortgagor covenants and agrees that neither it nor any occupant shall use, introduce or maintain Hazardous Materials on the Mortgaged Premises in any manner unless done in strict compliance

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with all Environmental Laws.

(b) The Mortgagor shall conduct and complete all investigations, environmental audits, studies, sampling and testing, and all remedial, removal and other actions necessary to clean up and remove all Hazardous Materials on or affecting the Mortgaged Premises in a manner not in compliance with all Environmental Laws, whether caused by the Mortgagor or a third party, in accordance with all Environmental Laws to the satisfaction of the Mortgagee, and in accordance with the orders and directives of all federal, state and local governmental authorities. Any remedial, removal or other action by the Mortgagor in a manner not in compliance with all Environmental Laws shall not be deemed a cure or waiver of any breach of this paragraph 12 due to the presence or use of Hazardous Materials on or affecting the Mortgaged Premises. Additionally, the Mortgagor shall defend, indemnify and hold harmless the Mortgagee, its employees, agents, shareholders, officers and directors, from and against any and all claims, demands, penalties, fines, liabilities, settlements, damages, costs or expenses imposed upon them (including, without limit, reasonable attorneys' fees) of whatever kind of nature arising out of or related to (i) the presence, disposal, release or threatened release of any Hazardous Materials on, from or affecting the Mortgaged Premises or the soil, water, air, vegetation, buildings, personal property, persons or animals on the Mortgaged Premises, (ii) any personal injury (including without limit wrongful death) or property damage (real or personal) arising out of or related to these Hazardous Materials, (iii) any lawsuit brought or threatened, settlement reached or government order related to these hazardous materials, (iv) the cost of removal of all Hazardous Materials from all or any portion of the Mortgaged Premises, (v) taking necessary precautions to protect against the release of Hazardous Materials on or affecting the Mortgaged Premises, (vi) complying with all Environmental Laws and/or (vii) any violation of Environmental Laws including, without limit, reasonable attorneys' and consultants' fees (the attorneys and consultants to be selected by the Mortgagee), investigation and laboratory fees, environmental studies required by the Mortgagee (whether prior to foreclosure, or otherwise), court costs and litigation expenses; provided, however, that such indemnities and obligations shall not apply with respect to Hazardous Materials which are first placed on the Mortgaged Premises after the date on which the Mortgagee or any other party obtains title to or comes into possession of the Mortgaged Premises to the exclusion of Mortgagor pursuant to an exercise by the Mortgagee of its remedies under the Mortgage or any of the other Loan Documents or as a result of a conveyance of title to the Mortgaged Premises by the Mortgagor to the Mortgagee or such other party in lieu of such exercise of remedies. Upon the request of the Mortgagee, the Mortgagor and any guarantor shall execute a separate indemnity consistent with this paragraph.

(c) Except as set forth in any Reports, the Mortgagor has never received any notice ("Environmental Complaint") of any violation of Environmental Laws with respect to the Mortgagor or the Mortgaged Premises (and, within five (5) days of receipt of any Environmental Complaint, the Mortgagor shall give the Mortgagee a copy of it), and to the best of the Mortgagor's knowledge, there have been no actions commenced or threatened by any party with respect to the Mortgagor or the Mortgaged Premises for noncompliance with any Environmental Laws.

(d) In the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the Mortgaged Premises to the Mortgagee, purchaser or grantee, as the case may be, free of any and all Hazardous Materials not in compliance with all

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Environmental Laws so that the condition of the Mortgaged Premises shall not be a violation of any Environmental Laws.

(e) In the event that Mortgagor is not acting with due diligence or as otherwise required by law, upon ten (10) days notice to the Mortgagor (except in an emergency or where not practical under applicable law, in which case notice is waived), and without limitation of the Mortgagee's other rights under this Mortgage or elsewhere, the Mortgagee has the right, but not the obligation, to enter on the Mortgaged Premises and to take other actions as are reasonably necessary to investigate or test for, clean up, remove, resolve, minimize the impact of or advise governmental agencies of the possible existence of any Hazardous Materials not in compliance with all Environmental Laws, or Environmental Complaint upon the Mortgagee's receipt of any notice from any source asserting the existence of any Hazardous Materials not in compliance with all Environmental Laws, or an Environmental Complaint pertaining to the Mortgaged Premises which, if true, could result in an order, suit or other action against the Mortgagor and/or any part of the Mortgaged Premises which, in the reasonable opinion of the Mortgagee, could jeopardize its security under this Mortgage. All reasonable costs and expenses incurred by the Mortgagee in the exercise of any of these rights shall be secured by this Mortgage and shall be payable by the Mortgagor upon demand. Any such actions conducted by the Mortgagee shall be solely for the benefit of and to protect the interests of the Mortgagee and shall not be relied upon the Mortgagor or any third party for any purpose whatsoever. By conducting any such actions, the Mortgagee does not assume control over the environmental affairs or operations of the Mortgagor nor assume any liability of the Mortgagor or any third party.

(f) The provisions of this paragraph 12 shall be in addition to any and all obligations and liabilities the Mortgagor may have to the Mortgagee at common law or pursuant to any other agreement between the parties, and shall survive (i) the repayment of all sums due under any note or other loan documents executed in connection with this Mortgage, including without limit, that certain Loan and Security Agreement dated March 14, 2013, as amended, modified and/or restated from time to time, between Mortgagor and Mortgagee (the "Loan Documents") and the repayment of all Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagor under this Mortgage and under the other Loan Documents, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure.

(g) For purposes of this Mortgage, (i) "Hazardous Materials" means any hazardous, toxic or dangerous substance, materials and wastes, including, without limitation, hydrocarbons (including naturally occurring or man-made petroleum and hydrocarbons), flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, biological substances, polychlorinated biphenyls, pesticides, herbicides and any other kind and/or type of pollutants or contaminants (including, without limitation, materials which include hazardous constituents), sewage, sludge, industrial slag, solvents and/or any other similar substances, materials or wastes that are or become regulated under any Environmental Law (including without limitation, any that are or become classified as hazardous or toxic under any Environmental Law) and (ii) "Environmental Laws" means all federal, state, district, local and foreign laws, rules, regulations, ordinances, and consent decrees relating to health, safety, hazardous substances, pollution and environmental matters, as now or at any time hereafter in effect, applicable to the Mortgagor's business or facilities or property owned or

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operated by the Mortgagor, including laws relating to emissions, discharges, releases or threatened releases of pollutants, contamination, chemicals, or hazardous, toxic or dangerous substances, materials or wastes in the environment (including, without limitation, ambient air, surface water, land surface or subsurface strata) or otherwise relating to the generation, manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of Hazardous Materials.

13. Every property management agreement affecting the Mortgaged Premises shall be delivered to Mortgagee. In addition, Mortgagor shall cause the property manager to enter into a subordination agreement with Mortgagee, in recordable form, whereby the property manager subordinates, to the extent permitted by law, its present and future lien rights and those of any party claiming by, through or under it, to the lien of this Mortgage.

14. If the Mortgagor fails to perform in any material respect, in the time and manner required, the covenants and agreements contained in this Mortgage, or if any action or proceeding is threatened or commenced which materially and adversely affects the Mortgagee's interest, including without limit, eminent domain, bankruptcy, insolvency, building, or zoning proceedings, then the Mortgagee at its option may make such appearances, disburse such sums and take such action as is reasonably deemed necessary by the Mortgagee to protect the Mortgagee's interest and the Mortgagor will reimburse the Mortgagee upon demand for all reasonable sums disbursed and costs incurred including, without limit, reasonable attorneys' fees and costs of entry upon the Mortgaged Premises to effect repairs. The Mortgagee shall not be liable in any case for failure to exercise its right or for failure to continue exercising its right once having exercised them.

15. If the Mortgagee at any time(s) for any reason shall incur or expend any sums including, without limit, court costs and reasonable attorneys' fees, whether or not in connection with any suit, action or proceeding, to sustain the lien of this Mortgage or its priority, or to protect the value of the Mortgaged Premises, or to protect or enforce or otherwise administer any of its rights under this Mortgage, or to recover any of the Indebtedness, or for any appraisal, environmental audit, title examination or title insurance policy relating to the Mortgaged Premises, or otherwise in any way relating to this Mortgage or the Indebtedness including, without limit, sums expended in connection with any suit involving the conduct of the Mortgagor or the Mortgagee with respect to this Mortgage or the Indebtedness, all of these sums on demand shall be paid by the Mortgagor to the Mortgagee, together with the interest on these sums at the Default Rate (but not to exceed the maximum interest rate permitted by applicable law), and shall be a lien on the Mortgaged Premises and secured by this Mortgage.

16. Mortgagor agrees to indemnify and hold harmless Mortgagee from and against any and all losses, liabilities, suits, obligations, fines, damages, judgments, penalties, claims, charges, costs and expenses (including reasonable attorneys' fees and disbursements) which may be imposed on, incurred or paid by or asserted against Mortgagee by reason or on account of, or in connection with, (i) any willful misconduct of Mortgagor or any event of default hereunder or under the other Loan Documents, (ii) Mortgagee's good faith and commercially reasonable exercise of any of its rights and remedies, or the performance of any of action taken hereunder or under the other Loan Documents, (iii) the construction, reconstruction or alteration of the Mortgaged Premises, (iv) any negligence of Mortgagor, or any negligence or willful misconduct of any lessee of the mortgaged

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premises, or any of their respective agents, contractors, subcontractors, servants, employees, licensees or invitees or (v) any accident, injury, death or damage to any person or property occurring in, on or about the mortgaged premises or any street, drive, sidewalk, curb or passageway adjacent thereto. The foregoing indemnity shall not apply to damages and claims arising out of Mortgagee's own gross negligence or willful misconduct. All of these sums shall on demand be paid by the Mortgagor to the Mortgagee, together with the interest on these sums at the Default Rate (but not to exceed the maximum interest rate permitted by applicable law), and shall be a lien on the Mortgaged Premises and secured by this Mortgage. The provisions of this paragraph 16 shall be in addition to any and all obligations and liabilities the Mortgagor may have to the Mortgagee at common law or pursuant to any other agreement between the parties, and shall survive (i) the repayment of all sums due under any note or other Loan Documents executed in connection with this Mortgage and the repayment of all Indebtedness, (ii) the satisfaction of all other obligations of the Mortgagor under this Mortgage and under the other Loan Documents, (iii) the discharge of this Mortgage, and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure.

17. The occurrence of any of the following events shall be deemed an Event of Default under this Mortgage and shall entitle the Mortgagee to exercise its remedies under this Mortgage, under any other agreement between Mortgagor and Mortgagee or as otherwise provided by law.

(a) Any amount due and owing on the Note or any of the Indebtedness, whether by its terms or as otherwise provided herein, is not paid within five (5) days when due;

(b) Any oral or written warranty, representation, certificate or statement in this Mortgage or any other agreement with the Mortgagee shall be false in any material respect when made or at any time;

(c) Any failure to perform or default in the performance of any covenant, condition or agreement contained in this Mortgage or in the Loan Documents or any other agreement with the Mortgagee and such failure to perform or default in performance continues beyond any applicable grace or cure period;

(d) A default under any of the other Loan Documents (all of which covenants, conditions and agreements contained therein are hereby incorporated in this Agreement by express reference) which is not cured within any applicable cure period shall be and constitute an Event of Default under this Agreement;

(e) Except as set forth in Paragraph 3 hereof, institution of foreclosure proceedings of any mortgage or lien of any kind against the Mortgaged Premises or any portion of it;

(f) The entry of any judgment, decree, levy, attachment, garnishment or other process, or the filing of any lien against Mortgagor which is not permitted hereunder or under the Loan Documents or is not fully covered by insurance, and which judgment or other process would have a material adverse effect on the ability of Mortgagor to perform under this Mortgage or under any other agreement between Mortgagor and Mortgagee and such judgment or other process shall not have been, within sixty (60) days from the entry thereof, (i) bonded over to the satisfaction of



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Mortgagee and appealed, (ii) vacated, or (iii) discharged; and

(g) Mortgagor becomes insolvent or generally fails to pay, or admits in writing its inability or refusal to pay, debts as they become due; or Mortgagor applies for, consents to, or acquiesces in the appointment of a trustee, receiver or other custodian for Mortgagor or any property thereof, or makes a general assignment for the benefit of creditors; or, in the absence of such application, consent or acquiescence, a trustee, receiver or other custodian is appointed for Mortgagor or for a substantial part of the property thereof and is not discharged within sixty (60) days; or any bankruptcy, reorganization, debt arrangement, or other case or proceeding under any bankruptcy or insolvency law, or any dissolution or liquidation proceeding, is commenced in respect of Mortgagor, and if such case or proceeding is not commenced by Mortgagor, it is consented to or acquiesced in by Mortgagor, or remains undismissed for sixty (60) days; or Mortgagor takes any action to authorize, or in furtherance of, any of the foregoing.

18. Immediately upon the occurrence of and during the continuation of any Event of Default which is not cured within any applicable cure period, the Mortgagee shall have the option, in addition to and not in substitution for, all other rights and remedies provided in this Mortgage, under any other agreement between the Mortgagor and the Mortgagee or afforded by law, and is authorized by the Mortgagor, to do any or all of the following:

(a) Declare the entire unpaid amount of the Indebtedness, together with accrued and unpaid interest on it, and any and all other charges payable by the Mortgagor to the Mortgagee to be immediately due and payable and, at the Mortgagee's option, (i) to bring suit for the same, (ii) to bring suit for any delinquent payment of or upon the indebtedness, (iii) to take any and all steps and institute any and all other proceedings that the Mortgagee deems necessary to enforce payment of the Indebtedness and performance of other obligations secured under this Mortgage and to protect the lien of this Mortgage.

(b) Commence foreclosure proceedings against the Mortgaged Premises through judicial proceedings, pursuant to applicable law. The commencement by the Mortgagee of foreclosure proceedings shall be deemed an exercise by the Mortgagee of its option to accelerate the Indebtedness, unless such proceedings on their face specifically indicate otherwise. The Mortgagor grants power to the Mortgagee to sell the Mortgaged Premises or to cause the same to be sold at public sale, and to convey the same to the purchaser, in accordance with applicable statutes in a single parcel or in several parcels at the option of the Mortgagee.

(c) Cause to be updated an abstract or abstracts and tax histories of the Mortgaged Premises, procure title insurance or title reports and procure new abstracts and tax histories.

(d) Obtain a receiver to manage the Mortgaged Premises and collect the rents, profits and income from it.

(e) Enter upon the Mortgaged Premises and take other actions as the Mortgagee reasonably deems appropriate to investigate or test for the presence of any Hazardous Materials and/or to appraise the Mortgaged Premises. Without limiting what other rights and remedies of the

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Mortgagee are specifically enforceable, the Mortgagor agrees that the Mortgagee's rights under this paragraph 18(e) are specifically enforceable since there is no adequate monetary remedy available to the Mortgagee.

(f) Contest the amount or validity of any taxes applicable to the Mortgaged Premises by appropriate proceedings either in the Mortgagee's name, the Mortgagor's name or jointly with the Mortgagor. The Mortgagor shall execute and deliver to the Mortgagee, upon demand, whatever documents and information the Mortgagee determines may be necessary or proper to so contest the taxes or to secure payment of any resulting refund. The Mortgagor shall reimburse the Mortgagee for all costs and expenses, including without limit reasonable attorneys' fees, incurred in connection with each tax contest proceeding. All refunds resulting from each tax contest proceeding shall belong to the Mortgagee to be applied against the Indebtedness with the surplus, if any, to be paid to the Mortgagor. The Mortgagee and any of its employees are each irrevocably appointed attorney-in-fact for the Mortgagor and are authorized to execute and deliver in the name of the Mortgagor those documents deemed necessary or proper by the Mortgagee to carry out any tax contest proceeding or receive the resulting refunds, if any.

(g) In the event of any sale of the Mortgaged Premises by foreclosure, apply the proceeds of any such sale in the following order or such other order as the Mortgagee may elect: to (i) all expenses reasonably incurred for the collection of the Indebtedness and the foreclosure of this Mortgage including, without limit, reasonable attorneys' fees; (ii) all sums reasonably expended or incurred by the Mortgagee directly or indirectly in carrying out terms, covenants and agreements of or under this Mortgage or any related document together with interest as provided in this Mortgage; (iii) all accrued and unpaid interest and late payment charges upon the Indebtedness; (iv) the unpaid principal amount of the Indebtedness; and (v) the surplus, if any, paid to the Mortgagor unless a court of competent jurisdiction decrees otherwise.

19. In case of the occurrence and continuation of an Event of Default which is not cured within any applicable cure period and in any case in which under the provisions of this instrument Mortgagee has a right to institute foreclosure proceedings, before or after the whole principal sum secured hereby is declared to be immediately due, or before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, Mortgagee may be appointed Mortgagee in possession and Mortgagor waives any right it may have to object to such appointment. In such event, Mortgagor shall surrender to the Mortgagee and the Mortgagee shall be entitled to take actual possession of the Mortgaged Premises or any part thereof, personally or by its agents or attorneys, together with all documents, books, records, papers and accounts of the Mortgagor, and may exclude the Mortgagor, its agents or servants wholly therefrom and may act as attorney-in-fact or agent of the Mortgagor, or in its own name as the Mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Premises and conduct the business thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as it may deem proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Mortgaged Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power:

(a) to cancel or terminate any lease or sublease for any cause or on any grounds that

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would entitle the Mortgagor to cancel the same;

(b) to elect or disaffirm any lease or sublease which is then subordinate to the lien hereof except to the extent proscribed by any non-disturbance agreement to which the Mortgagee is a party;

(c) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire or for options to lessees to extend or renew terms to expire beyond the maturity date of the Indebtedness secured hereby and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein shall be binding upon the Mortgagor and all persons whose interests in the Mortgaged Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;

(d) to make all reasonably necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Premises;

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

(f) to receive all of such avails, rents, issues and profits hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times, hereafter, without notice to the Mortgagor. The Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. The Mortgagor shall and does hereby agree to indemnify and hold the Mortgagee harmless of and from any and all liability, loss or damage which Mortgagee may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on Mortgagor's part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should the Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and the Mortgagor shall reimburse the Mortgagee therefor immediately upon demand.

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

(a) to the payment of any Indebtedness hereby secured or any deficiency which may result from any foreclosure sale;

(b) to the payment of the operating expenses of the Mortgaged Premises, including cost of management and leasing thereof (which shall include reasonable compensation to the Mortgagee

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and its agent or agents if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance herein above authorized;

(c) to the payment of taxes and special assessments now due or which may hereafter become due on the Mortgaged Premises; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease; and

(d) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Mortgaged Premises, and of placing the Mortgaged Premises in such condition as will, in the judgment of the Mortgagee, make it readily rentable.

21. Mortgagor shall not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. In the event of foreclosure of this Mortgage or the enforcement by the Mortgagee of any other rights and remedies under this Mortgage, the Mortgagor waives any right otherwise available in respect to marshaling of assets which secure the Indebtedness or to require the Mortgagee to pursue its remedies against any other assets or any other party which may be liable for any of the Indebtedness. In the event of any foreclosure or other sale under this Mortgage by virtue of judicial proceedings, advertisement, or otherwise, the Mortgaged Premises may be sold in one parcel and as an entirety, or in such parcels, manner or order as the Mortgagee in its sole discretion may elect. Mortgagor does hereby expressly waive any and all rights of redemption from any sale or from any order, judgment or decree of foreclosure of this mortgage on behalf of Mortgagor, and each and every person acquiring any interest in or title to the mortgaged premises subsequent to the date of this Mortgage. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note hereby secured. Mortgagor does hereby further expressly waive, to the extent now or hereafter permitted by law, all rights of reinstatement of this Mortgage.

22. The Mortgagor does hereby release and waive all rights under and by virtue of the homestead exemption laws and under the provisions of Section 522(d) of the Federal Bankruptcy Code.

23. Nothing shall be construed as constituting the Mortgagee a mortgagee in possession in the absence of actual taking of possession of the Mortgaged Premises by the Mortgagee.

24. Subject to the right of Mortgagor to contest under Paragraph 6 of this Mortgage, with respect to the right, title, interest or lien of any person or entity which is superior to the lien of this Mortgage, the Mortgagee has the right, but not the obligation, to acquire and/or pay off the holder of such right, title, interest or lien and add the amount so paid to the Indebtedness and charge interest on that amount at the Default Rate (but not to exceed the maximum interest rate permitted under the applicable law).

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25. At the sole option of the Mortgagee, this Mortgage shall become subordinate, in whole or in part (but not with respect to priority as to insurance proceeds or any eminent domain award) to any or all leases and/or occupancy agreements of all or part of the Mortgaged Premises upon the execution by the Mortgagee, and recording in the appropriate official county records where the premises are located, of a unilateral declaration to that effect.

26. To the extent that any of the Indebtedness is payable upon demand, nothing contained in this Mortgage shall be construed to prevent the Mortgagee from making written demand, with or without reason, for immediate payment of all or any part of that Indebtedness at any time or times, whether or not an Event of Default has occurred.

27. It is acknowledged and agreed that the Indebtedness secured hereby is, in addition to this Mortgage, secured by the other Loan Documents. Mortgagor covenants and agrees that all the terms, covenants, conditions, representations, obligations and provisions of the Note and the other Loan Documents are, by this reference, adopted and incorporated into this Mortgage to the same full extent and with the same binding force and effect as if all such terms, covenants, conditions, representations, obligations and provisions were herein stated in full, and Mortgagor will pay, perform, and observe, or cause to be paid, performed and observed, all the terms, covenants, conditions, representations, obligations and provisions of the Note and the other Loan Documents, it being the express intent that each of the Note, and the other Loan Documents complement and supplement one another to the extent necessary or required to protect, preserve and confirm the rights, powers and remedies of Mortgagee in respect of the Indebtedness secured hereby and that any default under this Mortgage, or the other Loan Documents shall also be a default under all of such documents.

28. No waiver or forbearance by the Mortgagee of any right or remedy under this Mortgage shall affect or extend to or be deemed a waiver of any other right or remedy of the Mortgagee under this Mortgage nor affect or impair the subsequent exercise of the same right or remedy by the Mortgagee for any future subsequent default by the Mortgagor under this Mortgage.

29. All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, any other agreement between Mortgagor and Mortgagee or afforded by law, and may be exercised concurrently, independently or successively.

30. Nothing contained in this Mortgage is intended, nor should it be construed, to preclude the Mortgagee from pursuing any other remedy provided by law for the collection of the Indebtedness or any portion of it, or for the recovery of any other sum to which the Mortgagee may be or become entitled for breach of this Mortgage by the Mortgagor, nor shall anything contained in this Mortgage reduce or release in any manner any rights, security interests or liens in favor of the Mortgagee contained in any existing or future agreement between the Mortgagor and the Mortgagee.

31. Promptly upon the request of the Mortgagee, the Mortgagor shall execute, acknowledge and deliver any and all further conveyances, documents, mortgages and assurances, and do or cause to be done all further acts as the Mortgagee may reasonably require to confirm and protect the lien of this Mortgage or otherwise to accomplish the purposes of this Mortgage.

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32. Upon request by the Mortgagee, the Mortgagor shall promptly provide the Mortgagee with the certificates of occupancy, licenses, rent rolls, financial statements, tenant estoppel letters, tenant subordination agreements and other documents and information pertaining to the Mortgaged Premises and its operations as the Mortgagee, from time to time, may reasonably request.

33. Mortgagee shall have a right to inspect, audit, appraise and examine the Mortgaged Premises at all reasonable times and access shall be permitted for that purpose provided that such inspections, etc. shall not unreasonably interfere with Mortgagor's or tenant's business operations. Any inspection, audit, appraisal or examination by the Mortgagee or its agents of the Mortgaged Premises is for the sole purpose of protecting the Mortgagee's interests under this Mortgage and is not for the benefit or protection of the Mortgagor or any third party. The Mortgagee has no obligation to provide the Mortgagor or any third party designated by the Mortgagor with information concerning or results of any inspection, audit, appraisal or examination by the Mortgagee or its agents. If the Mortgagee, in its sole discretion, discloses information to the Mortgagor this disclosure is for the sole protection of the Mortgagee, does not constitute an agreement to further disclosure and does not create a warranty by the Mortgagee as to the accuracy, sufficiency or any other aspect of the disclosure.

34. At any time and from time to time upon not less than ten (10) days' prior written request by Mortgagee, Mortgagor shall deliver to Mortgagee, or to any person designated by Mortgagee, a written statement executed and acknowledged in recordable form certifying: (1) that this Mortgage, the Note and the Loan Documents are in full force and effect (or, if there have been modifications, that this Mortgage, the Note and the Loan Documents are in full force and effect as modified and stating the modifications); (2) that to date no indebtedness and all other charges secured hereby have been paid; (3) that neither Mortgagor nor Mortgagee is in default under this Mortgage, the Note or the Loan Documents (or, if such a default allegedly exists, stating those claimed); (4) that there are no offsets or defenses to the payment of the sums secured hereby (or, if there are alleged offsets or defenses, specifying such alleged offsets or defenses); and (5) such other information as Mortgagee may reasonably require.

35. All notices, requests, demands and other communications provided for hereunder shall be in writing and addressed to the address set forth as follows, unless such address is changed by written notice hereunder:

<b>To the Mortgagor:</b>	DeNovo Constructors, Inc. 1302 W. Randolph St. Chicago, IL 60607 Attn: Jonathon K. Markoff
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<b>To the Bank:</b>	Inland Bank & Trust 2805 Butterfield Road Oak Brook, IL 60523 Attention: Sean Gallagher, Sr. Vice President
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Notice may be given by mail by depositing such notice in the United States mail, certified or registered mail, postage prepaid, or by overnight courier, or by personal delivery. Notices shall be deemed delivered if delivered in person, and if sent by certified or registered mail, shall be deemed delivered three business days after it is deposited in the mails, and if sent by overnight courier, shall be deemed delivered one business day after it is sent.

36. Upon full and final payment of the Indebtedness and performance by the Mortgagor of all its other obligations under this Mortgage, except as otherwise provided in paragraphs 12(f), 16 and 37 of this Mortgage, the parties shall automatically each fully, finally and forever release and discharge the other from any claim, liability or obligation in connection with this Mortgage and the Indebtedness. Mortgagee shall provide a release deed to Mortgagor and Mortgagor shall pay any recordation costs.

37. Notwithstanding any prior revocation, termination, surrender or discharge of this Mortgage, the effectiveness of this Mortgage shall automatically continue or be reinstated, as the case may be, in the event that (a) any payment received or credit given by the Mortgagee in respect of the Indebtedness is returned, disgorged or rescinded as a preference, impermissible setoff, fraudulent conveyance, diversion of trust funds, or otherwise under any applicable state or federal law, including, without limitation, laws pertaining to bankruptcy or insolvency, in which case this Mortgage shall be enforceable as if the returned, disgorged or rescinded payment or credit had not been received or given, whether or not the Mortgagee relied upon this payment or credit or changed its position as a consequence of it; or (b) any liability is imposed or sought to be imposed, against the Mortgagee relating to the environmental condition of, or the presence of hazardous or toxic substances on, in or about, any property given as collateral to the Mortgagee for the Indebtedness, whether this condition is known or unknown, now exists or subsequently arises (excluding only conditions which arise after any acquisition by the Mortgagee of any such property, by foreclosure, in lieu of foreclosure or otherwise, to the extent due to the wrongful act or omission of the Mortgagee), in which case this Mortgage shall be enforceable to the extent of all liability, costs and expenses (including without limit reasonable attorneys fees) incurred by the Mortgagee as the direct or indirect result of any environmental condition of hazardous toxic substances. In the event of continuation or reinstatement of this Mortgage, Mortgagor agrees upon demand by the Mortgagee to execute and deliver to the Mortgagee those documents which the Mortgagee determines are appropriate to further evidence (in the public records or otherwise) this continuation or reinstatement, although the failure of the Mortgagor to do so shall not affect in any way the reinstatement or continuation. If Mortgagor does not execute and deliver to the Mortgagee upon demand such documents, the Mortgagee and each Mortgagee officer are irrevocably appointed (which appointment is coupled with an interest) the true and lawful attorney of the Mortgagor (with full power of substitution) to execute and deliver such documents in the name and on behalf of the Mortgagor.

38. THIS MORTGAGE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF ILLINOIS.

39. MORTGAGOR AND MORTGAGEE EACH WAIVE TRIAL BY JURY IN ANY ACTION OR PROCEEDING OF ANY KIND IN ANY COURT, ARISING OUT OF, UNDER, RELATING TO OR BY REASON OF THIS AGREEMENT, AND MORTGAGOR CONSENTS

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TO THE EXCLUSIVE JURISDICTION AND VENUE OF ANY STATE OR FEDERAL COURT SITUATED IN THE STATE OF ILLINOIS AND WAIVES ANY OBJECTION BASED ON LACK OF JURISDICTION, IMPROPER VENUE OR *FORUM NON CONVENIENS*.

40. If any provision of this Mortgage is in conflict with any statute or rule of law or is otherwise unenforceable for any reason, then that provision shall be deemed null and void to the extent of the conflict or unenforceability and shall be deemed severable, but shall not invalidate any other provision of this Mortgage.

41. Any reference in this Mortgage to attorneys' fees shall be deemed a reference to reasonable fees, charges, costs and expenses of outside counsel and paralegals, whether or not a suit or proceeding is instituted, and whether incurred at the trial court level, on appeal, in a bankruptcy, administrative or probate proceeding, in a workout, in consultation with counsel, or otherwise. All costs, expenses and fees of any nature for which the Mortgagor is obligated to reimburse or indemnify the Mortgagee are part of the Indebtedness secured by this Mortgage and are payable upon demand, unless expressly provided otherwise, with interest until repaid at the Default Rate (but not to exceed the maximum rate permitted by applicable law).

42. This Mortgage constitutes the entire agreement of the Mortgagor and the Mortgagee with respect to the subject matter of this Mortgage. No waiver, consent, modification or change of the terms of this Mortgage shall bind the Mortgagor or the Mortgagee unless in writing and signed by the party, or an authorized officer of the party, against whom enforcement is sought. Each waiver, consent, modification or change shall be effective only for the specific purpose given.

43. This Mortgage shall be binding on the Mortgagor and the Mortgagee and on the Mortgagor's and the Mortgagee's heirs, legal representatives, successors and assigns including, without limit, any debtor in possession or trustee in bankruptcy for the Mortgagor. This shall not be deemed a consent by the Mortgagee to a conveyance by the Mortgagor of all or part of the Mortgaged Premises or of any ownership interest in the Mortgagor.

44. THIS INSTRUMENT IS ALSO A UCC FINANCING STATEMENT.

[Next page is signature page]



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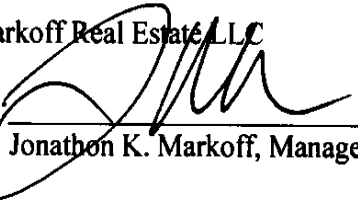
IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of March 14, 2013.

1300 RANDOLPH, LLC

By: Its Member

Markoff Real Estate LLC

By:

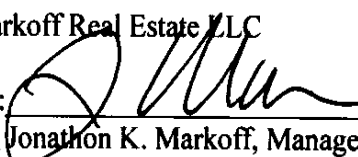
  
\_\_\_\_\_  
Jonathon K. Markoff, Manager

1302-08 RANDOLPH, LLC

By: Its Member

Markoff Real Estate LLC

By:

  
\_\_\_\_\_  
Jonathon K. Markoff, Manager

THIS INSTRUMENT WAS DRAFTED BY: F. Kevin Murnighan, Carey, Filter, White & Boland,  
33 W. Jackson, 5<sup>th</sup> Floor, Chicago, IL 60604

Property of Cook County Clerk's Office

# UNOFFICIAL COPY

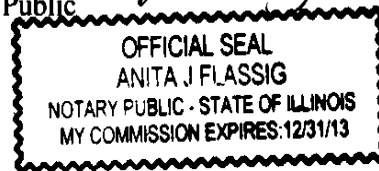
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF WILL )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that <sup>JONATHAN K.</sup>WALKOFF is personally known to me to be a duly authorized manager of 1300 RANDOLPH LLC and that he appeared before me this day in person and acknowledged that he signed and delivered this Mortgage in writing as a duly authorized manager of said company and pursuant to authority given by said company as his free and voluntary act, and as the free and voluntary act of said company for uses and purposes therein set forth.

Date: 3-14-13

My commission expires: 12-31-13

Anita J. Flassig  
Notary Public



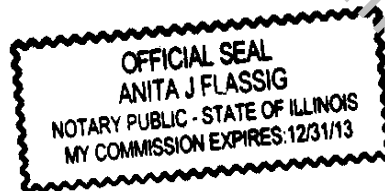
STATE OF ILLINOIS )  
 ) SS  
COUNTY OF WILL )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that <sup>JONATHAN K.</sup>WALKOFF is personally known to me to be a duly authorized manager of 1302-08 RANDOLPH LLC and that he appeared before me this day in person and acknowledged that he signed and delivered this Mortgage in writing as a duly authorized manager of said company and pursuant to authority given by said company as his free and voluntary act, and as the free and voluntary act of said company for uses and purposes therein set forth.

Date: 3.14-13

My commission expires: 12-31-13

Anita J. Flassig  
Notary Public



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## EXHIBIT A

### Legal Description

#### PARCEL 1:

THE NORTH 25.00 FEET OF THE SOUTH 60.00 FEET OF LOT 4 IN THE ASSESSOR'S DIVISION OF LOTS 15 AND 16 IN BLOCK 1 IN SAWYER'S ADDITION TO CHICAGO IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

LOT 3 AND THE NORTH 40.00 FEET OF LOT 4 AND ALL OF LOTS 5 TO 8, INCLUSIVE, AND THE ALLEY NORTH OF AND ADJOINING SAID LOTS 4, 5, 6, 7, 8 ALL IN THE ASSESSOR'S DIVISION OF LOTS 15 AND 16 IN BLOCK 1 IN SAWYER'S ADDITION TO CHICAGO IN SECTION 8, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, (EXCEPT THAT PART THEREOF TAKEN FOR WIDENING OF RANDOLPH STREET), IN COOK COUNTY, ILLINOIS.

PIN: 17-08-325-022-0000

PIN: 17-08-325-023-0000

Address: 1300-08 W. Randolph, Chicago, IL

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EXHIBIT B

LEASES

*- NONE -*

Property of Cook County Clerk's Office

**COOK COUNTY  
RECORDER OF DEEDS  
SCANNED BY \_\_\_\_\_**