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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1309245020 Fee: \$74.00
RHSP Fee:\$10.00 Affidavit Fee:
Karen A.Yarbrough
Cook County Recorder of Deeds
Date: 04/02/2013 01:37 PM Pg: 1 of 19

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 17-09-331-008-0000

Address:

Street: 618 WEST WASHINGTON STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60661

Lender: KAREP REIT IIb, INC

Borrower: MP CATALYST, LLC

Loan / Mortgage Amount: \$10,819,453.97

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is commercial property.

Certificate number: 7B73C3BE-4D38-450C-8C5E-2EBD864C5A76

Execution date: 03/29/2013

8917376 Keweenaw Bl 2012

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

DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601
Attn: Gregg Graines, Esq.

Permanent Tax Index Number[s]:

SEE ATTACHED EXHIBIT A

Premises Address:

SEE ATTACHED EXHIBIT A

This space reserved for Recorder's use only.

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

by

**MP CATALYST, LLC,
an Illinois limited liability company**

to and for the benefit of

**KAREP REIT IIb, Inc.,
a Delaware corporation**

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

THIS JUNIOR MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING ("Mortgage") is made as of the 27th day of March, 2013, by **MP CATALYST, LLC**, an Illinois limited liability company ("Mortgagor"), having an address at c/o 401 S. Main Street, Suite 300, Naperville, IL 60540 for the benefit of **KAREP REIT Iib, Inc.**, a Delaware corporation, its successors and assigns ("Lender"), having an address and principal place of business at c/o Kayne Anderson Real Estate Advisors, 200 Business Park Drive, Suite 309, Armonk, NY 10504:

RECITALS:

Lender has executed a certain guaranty of even date herewith (the "Guaranty") in favor of HUNT ELP, LTD., a Texas limited partnership ("Hunt").

As a condition precedent to Lender's willingness to execute the Guaranty, Mortgagor executed a certain reimbursement agreement of even date herewith (as may be amended from time to time, the "Reimbursement Agreement") in favor of Lender whereby Mortgagor has agreed to reimburse Lender for any and all costs and expenses paid by Lender to Hunt pursuant to the Guaranty.

As a condition precedent to Lender's execution of the Guaranty is the execution and delivery by Mortgagor of this Mortgage.

NOW, THEREFORE, in consideration of the premises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to secure payment and performance of the Indebtedness (as hereinafter defined);

Mortgagor hereby **GRANTS, BARGAINS, SELLS, CONVEYS, TRANSFERS, ASSIGNS, MORTGAGES, WARRANTS AND SETS OVER**, to Lender, its successor, and assigns, and grants a security interest in, the following described property, rights and interest (referred collectively herein as "Premises") all of which property, rights and interest are hereby pledged primarily and on parity with the real estate located in the State of Illinois and legally described on Exhibit A attached hereto ("Real Estate") and not secondarily:

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and located on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, boilers, elevators, engines, equipment, fans, fittings, floor coverings, furnaces, furnishings, hardware, heaters, humidifiers, lighting, machinery, motors, plumbing, security systems and wiring, and all extensions, additions, improvements, betterments, renewals, substitutions and replacements to

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any of the foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf ("Improvements");

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

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Mortgagor thereon, to be applied against the Indebtedness (hereinafter defined);

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Lease;

TOGETHER WITH all of Mortgagor's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Uniform Commercial Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Mortgagor is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to Mortgagor thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

TOGETHER WITH all of Mortgagor's accounts now owned or hereafter created or acquired as relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts, contract rights, health care insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to the Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code), and (vi) proceeds of any of the foregoing and all collateral security and

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guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Premises;

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

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

FOR THE PURPOSE OF SECURING: (i) the performance and observance by Mortgagor of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Lender which are evidenced or secured by or otherwise provided in the Reimbursement Agreement and (iii) the reimbursement to Lender by Mortgagor of any and all costs and expenses paid by Lender to Hunt pursuant to the Guaranty (all of the aforesaid liabilities and obligations are collectively referred to herein as the "Indebtedness").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Title.** Mortgagor represents, warrants and covenants that (a) Mortgagor is the holder of the fee simple title to the Premises, free and clear of all liens, except with respect to that certain mortgage provided by Mortgagor in favor of Hunt; (b) Mortgagor has legal power and authority to mortgage and convey the Premises; and (c) the Premises is not used principally for agricultural purposes.

The foregoing representations, warranties and covenants are made solely for the benefit of Lender and may only be relied upon or enforced by Lender.

2. **Maintenance, Repair and Restoration of Improvements, Payment of Prior Liens, etc.** Mortgagor covenants that, so long as any portion of the Indebtedness remains unpaid, Mortgagor shall (i) keep the Premises free from mechanics' liens or other liens or claims for lien, (ii) immediately pay when due any indebtedness which may be secured by a lien or charge on the Premises superior or inferior to or at parity with the lien hereof (no such superior, inferior or parity lien to be permitted hereunder), and upon request exhibit satisfactory evidence of the discharge of any such lien to Lender, (iii) comply with all requirements of law, municipal ordinances and restrictions of record with respect to the Premises and the use thereof, including without limitation, those relating to building, zoning, environmental protection, health, fire and safety, provided that Mortgagor shall have the right to protest the application of such requirements so long as such protest is conducted in good faith by appropriate proceedings diligently prosecuted; (iv) not initiate or acquiesce in any zoning reclassification of the Real

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Estate to any category without the prior written consent of Lender; (v) pay each item of Indebtedness secured by this Mortgage when due according to the terms of the Reimbursement Agreement; and (vi) duly perform and observe all of the covenants, terms, provisions and agreements herein and in Reimbursement Agreement on the part of Mortgagor to be performed and observed.

3. **Payment of Taxes and Assessments.** Mortgagor shall pay (or protest in the manner provided below) all general taxes, special taxes, special assessments, water charges, sewer service charges, and all other liens or charges levied or assessed against the Premises, or any interest therein (except the interest of any tenant therein), of any nature whatsoever when due and before any penalty or interest is assessed, and, at the request of Lender, shall furnish to Lender duplicate receipts of payment therefor. If any special assessment is permitted by applicable law to be paid in installments, Mortgagor shall have the right to pay such assessment in installments, so long as all such installments are paid prior to the due date thereof.

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

5. **Effect of Extensions of Time.** If the payment of the Indebtedness secured hereby or any part thereof is extended or varied or if any part of any security for the payment of the Indebtedness is released, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in Mortgagor, shall be held to assent to such extension, variation or release, and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Lender, notwithstanding such extension, variation or release.

6. **Effect of Changes in Laws Regarding Taxation** If any law is enacted after the date hereof requiring the imposition upon Lender of the payment of the whole or any part of the taxes or assessments, charges or liens herein required to be paid by Mortgagor, or a change in the method of taxation of mortgages or deeds of trust or debts secured by mortgages or deeds of trust or Lender's interest in the Premises, so as to require a tax or other payment by the Lender of this Mortgage, then Mortgagor, upon demand by Lender, shall pay such taxes or assessments, or reimburse Lender therefor; provided, however, that Mortgagor shall not be deemed to be required to pay any income or franchise taxes of Lender.

7. **Lender's Performance of Defaulted Acts and Expenses Incurred by Lender** If an Event of Default has occurred, Lender may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Lender required to protect, preserve or maintain the Premises, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any

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tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default of Mortgagor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, (including reasonable attorneys' fees) and any other monies advanced by Lender in regard to any tax referred to above or to protect the Premises or the lien hereof, shall be so much additional Indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Lender, upon demand. In addition to the foregoing, any costs, expenses and fees (including reasonable court costs, attorneys' and paralegals' fees based on standard and customary hourly rates, without regard to any statutory presumption) incurred by Lender in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting or enforcing any of Lender's rights hereunder, (c) recovering any Indebtedness secured hereby, (d) any litigation or proceedings determining the sums owing to Lender pertaining to this Mortgage or the Reimbursement Agreement, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings pertaining to this Mortgage or the Reimbursement Agreement, shall be so much additional Indebtedness secured hereby, and shall become immediately due and payable by Mortgagor to Lender, upon demand. Lender's failure to act shall never be considered as a waiver of any right accruing to Lender on account of any Event of Default. Should any amount paid out or advanced by Lender under this Section, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then Lender shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and Indebtedness, regardless of whether said liens, charges and Indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

8. **Event of Default; Acceleration.** An "Event of Default" shall occur under this Mortgage upon the occurrence of an event of default described in the Reimbursement Agreement. If an Event of Default occurs, Lender may, at its option, declare the whole of the Indebtedness hereby secured to be immediately due and payable by Mortgagor upon notice to Mortgagor, with interest thereon from the date of such Event of Default until paid at the Default Rate.

9. **Foreclosure; Expense of Litigation.**

(a) When all or any part of the Indebtedness shall become due pursuant to the terms and conditions of the Reimbursement Agreement, whether by acceleration or otherwise, the Lender shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or the Reimbursement Agreement in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale in accordance with the Act following an Event of Default, the Lender is hereby authorized, without the further consent of the Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as the Lender may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

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

10. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act with the excess, if any, being applied to any parties entitled thereto as their rights may appear.

11. **Appointment of Receiver** Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon notice to Mortgagor and petition by the Lender, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without regard to the solvency or insolvency of the Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and the Lender hereunder. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when the Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

12. **Lender's Right of Possession in Case of Default.** At any time after an Event of Default has occurred, Lender may, upon receipt of a court order so permitting, take possession of

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the Premises. The Lender, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude the Mortgagor and its employees, agents or servants therefrom, and the Lender may then hold, operate, manage and control the Premises, either personally or by its agents. The Lender shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent.

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

(a) to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include compensation to the Lender and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, but in no event shall such amounts exceed the fees of third party managers performing comparable work in the vicinity of the Premises), established claims for damages, if any, and premiums on insurance hereinabove authorized;

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

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

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

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

(b) If any provision of this Mortgage shall grant to the Lender (including the Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 17 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in the Lender or in such receiver under the Act in the absence of said provision, the Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

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

15. **Rights Cumulative.** Each right, power and remedy herein conferred upon Lender is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Lender, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Lender in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

16. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Lender shall release this Mortgage and the lien hereof and shall release all filed financing statements by proper instrument upon payment and discharge by Mortgagor of all Indebtedness secured hereby, at no additional cost or expense to Mortgagor (other than filing or recording fees to be paid by Mortgagor).

17. **Notices.** Any notices, communications and waivers under this Mortgage shall be in writing and shall be (i) delivered in person, (ii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iii) by overnight express carrier, addressed in each case as follows:

Mortgagor:	MP Catalyst, LLC 401 S. Main Street, Suite 300 Naperville, IL 60540 Attn: Darren Sloniger
Copy to:	Levenfeld Pearlstein, LLC 2 North LaSalle Street Suite 1300 Chicago, Illinois 60602 Attn: Thomas G. Jaros
Lender:	KAREP REIT IIb, Inc., c/o Kayne Anderson Real Estate Advisors 200 Business Park Drive, Suite 309 Armonk, NY 10504 Attn: David Selznick
	DLA Piper LLP (US)

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203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601
Attention: Gregg Graines, Esq.

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

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

(a) The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15-1601 or other applicable law or replacement statutes; and

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

19. **Due on Sale/Further Encumbrance.**

(a) Neither all nor any portion of the Premises nor any membership interest in Mortgagor shall be sold, conveyed, assigned, encumbered, leased or otherwise transferred (nor shall any agreement be entered into to sell, convey, assign, encumber, lease or otherwise transfer same, unless (but without limiting the aforesaid limitation on the actual sale, conveyance, assignment, encumbrance or other transfer) the same shall contemplate that the Loan shall be repaid in full at or prior to the closing of such sale, conveyance, assignment or other transfer) without, in each instance, the prior written consent of Lender, which consent may be given or withheld in Lender's reasonable discretion. Any

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violation or attempted violation of the provisions of this Section shall be an immediate Event of Default hereunder.

(b) Any consent by Lender, or any waiver by Lender of an Event of Default under this Section shall not constitute a consent to or waiver of any right, remedy or power of Lender upon a continuing or subsequent Event of Default under this Section. Mortgagor acknowledges that any agreements, liens, charges or encumbrances created in violation of the provisions of this Section shall be void and of no force or effect. Mortgagor agrees that if any provision of this Section is deemed a restraint on alienation, that such restraint is a reasonable one.

20. Expenses Relating to Mortgage.

(a) Mortgagor will pay all expenses, charges, costs and fees relating to this Mortgage and the Reimbursement Agreement, including without limitation, Lender's reasonable court costs, attorneys' and paralegals' fees based on standard and customary hourly rates, without regard to any statutory presumption in connection with the negotiation, documentation and enforcement of this Mortgage and the Reimbursement Agreement, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and the Reimbursement Agreement. Mortgagor recognizes that, during the term of this Mortgage, Lender:

(i) May be a party in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which Lender shall be a party by reason of this Mortgage or the Reimbursement Agreement, provided, however, prior to the occurrence of an Event of Default, if Mortgagor is diligently and in good faith contesting such proceeding, any expenses of Lender shall be borne by Lender;

(ii) May make preparations following the occurrence of an Event of Default hereunder and during the continuance thereof for the commencement of any suit for the foreclosure hereof or to collect the Indebtedness evidenced by or owing under this Mortgage or the Reimbursement Agreement, which may or may not be actually commenced;

(iii) May make preparations following the occurrence of an Event of Default hereunder and during the continuance thereof for, and do work in connection with, Lender's taking possession of and managing the Premises, which event may or may not actually occur;

(iv) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced; or

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(v) After the occurrence of an Event of Default, may enter into negotiations with Mortgagor or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the Indebtedness represented by the Reimbursement Agreement or the transfer of the Premises in lieu of foreclosure or other sale.

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

21. **Statement of Indebtedness.** Each party hereto, within ten days after being so requested by the other party, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that to the knowledge of the party executing such statement, no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

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

23. **Additional Indebtedness Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures any and all other amounts which may become due under the Reimbursement Agreement or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness secured thereby, including, without limitation, any and all amounts expended by Lender to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

24. **Indemnity.** Mortgagor shall indemnify and save Lender harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable court costs, attorneys' and paralegals' fees based on standard and customary hourly rates, without regard to any statutory presumption) (collectively, the "Claims") which may be imposed on, incurred by or asserted against Lender at any time by any third party which arise from:

(a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Lender becomes a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage (provided that prior to the occurrence of an Event of Default, if Mortgagor is diligently and in good faith contesting any such suit or proceeding, any expenses of Lender incurred in connection with such suit or proceeding shall be borne by Lender); and

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(b) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Lender in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Lender harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Lender or actions taken by parties other than Mortgagor (or Mortgagor's agents, employees or contractors) after Lender has taken possession or control of the Premises. All costs provided for herein and paid for by Lender shall be so much additional Indebtedness secured hereby and shall become immediately due and payable without notice and with interest at the Default Rate.

25. **Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter by Mortgagor with a property manager, shall contain subordination provisions whereby the property manager subordinates present and future lien rights and those of any party claiming by, through or under the property manager to the lien of this Mortgage.

26. **Miscellaneous.**

(a) **Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and its estates, heirs, legatees, assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of Lender, its successors and assigns.

(b) **Invalidity of Provisions; Governing Law.** In the event one or more of the provisions contained in this Mortgage or in the Reimbursement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provision of this Mortgage and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

(c) **Rights of Tenants.** The Lender shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of the Lender. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by the Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

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

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

(f) **Time of the Essence.** Time is of the essence of the payment by Mortgagor of all amounts due and owing to Lender under the Reimbursement Agreement and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the Reimbursement Agreement.

(g) **No Merger.** It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Lender acquire any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Lender as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed or otherwise sold as if owned by a stranger to the fee simple title.

(h) **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to 200% of the original principal amount under the Guaranty.

(i) **Jurisdiction and Venue.** TO INDUCE THE LENDER TO ACCEPT THE MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO THE LENDER'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE REIMBURSEMENT AGREEMENT AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN CHICAGO, ILLINOIS. THE MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN CHICAGO, ILLINOIS, WAIVES PERSONAL SERVICE OF PROCESS UPON THE MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO THE MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

(j) **WAIVER OF JURY TRIAL.** THE MORTGAGOR AND THE LENDER (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL EACH KNOWINGLY AND VOLUNTARILY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS (A) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR

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AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (B) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

(k) **Complete Agreement.** This Mortgage and the Reimbursement Agreement constitute the complete agreement between the parties with respect to the subject matter hereof and this Mortgage and the Reimbursement Agreement may not be modified, altered or amended except by an agreement in writing signed by the applicable parties thereto.

(l) **Exculpation of Mortgagor.** Anything contained in this Mortgage to the contrary notwithstanding, recourse against Mortgagor for (a) the satisfaction of the obligations described in this Mortgage, or (b) the performance of all of the other obligations of Mortgagor under this Mortgage, or (c) any judgment rendered against Mortgagor by a court of equity which requires the payment of money shall be limited solely to Mortgagor and none of (i) any member of Mortgagor; (ii) any person owning, directly or indirectly, any legal or beneficial interest in any member of Mortgagor; (iii) any partner (general or limited, or a subpartner at any level), manager, principal, officer, controlling person, real estate investment advisor or other similar fiduciary, shareholder, employee, agent, affiliate or director of any person described in clauses (i) or (ii) above; or (iv) any of their respective successors and assigns shall be personally liable for the payment of any Indebtedness or the performance of any other obligations hereunder; provided, however, that the foregoing exculpation shall not impair or otherwise affect any of Lender's rights or remedies against Mortgagor or any collateral now or hereafter pledged to Lender as security for the obligations of Mortgagor. A negative capital account of a member of Mortgagor shall not be deemed to be an asset of Mortgagor.

27. **Junior Mortgage.** This Mortgage is a junior mortgage, the lien of which is junior, subject and subordinate to the lien of that certain mortgage in favor of HUNT ELP, Ltd., a Texas limited partnership (along with its successors and assigns, the "First Lender") and recorded against the Premises which are collectively referred to as the "First Liens" securing a loan in the amount of \$ 10,819,453.97 referred to as the "First Loan". This Mortgage shall be junior and subordinate to the First Liens regardless of the actual recording order of this Mortgage and the First Liens. Mortgagor covenants and agrees that it shall well and truly perform and discharge each and all of the obligations and conditions of the First Liens and all other documents relating thereto and that a default or the occurrence of a default under the First Liens or the First Loan (which are not cured within any applicable notice, cure or grace period) shall constitute a default and Event of Default hereunder in consequence whereof Lender may avail itself of any or all of the rights and remedies reserved herein or allowed or permitted by law or in equity as in such case made and provided. Lender acknowledges and agrees that to the extent performance of an obligation hereunder may be satisfied by the rendering of performance to the First Lender (e.g. payment of taxes), Mortgagor's rendering of performance to the First Lender shall be deemed performance by Mortgagor hereunder.

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IN WITNESS WHEREOF, Mortgagor has executed this instrument the day and year first above written.

MP CATALYST LLC, an Illinois limited liability company

By: [Signature]
Name: Darren Sloniger
Title: Manager

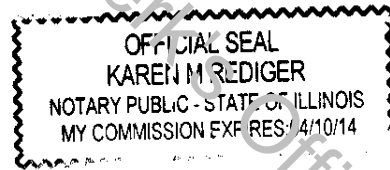
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Darren Sloniger, the Manager of MP CATALYST, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 29 day of March, 2013.

[Signature: Karen M. Rediger]
Notary Public

My Commission Expires:
4/10/14



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE SOUTH 25 FEET 8 - 1/2 INCHES OF LOT 7 IN BLOCK 47 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 7 (EXCEPT THE SOUTH 25 FEET 8 - 1/2 INCHES) IN BLOCK 47 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 6 (EXCEPT THE NORTH 37.0 FEET THEREOF) IN BLOCK 47 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

THAT PART OF LOT 10 IN BLOCK 47 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE EAST 75.00 FEET OF SAID LOT 10, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

THE EAST 75 FEET OF LOT 10 IN BLOCK 47 IN ORIGINAL TOWN OF CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

LOT 6 EXCEPT THE SOUTH 38.67 FEET AND EXCEPT THE NORTH 1.25 FEET IN BLOCK 47, IN THE ORIGINAL TOWN OF CHICAGO, IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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ALSO DESCRIBED AS:

THE NORTH 37 FEET OF LOT 6 (EXCEPT THE NORTH 15 INCHES THEREOF) IN BLOCK 47 IN THE ORIGINAL TOWN OF CHICAGO SECTION 9, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Addresses: 618 West Washington Street, Chicago, Illinois
630 West Washington Street Chicago, Illinois
123 North Des Plaines Street, Chicago, Illinois

PINS: 17-09-331-008-0000; 17-09-331-009-0000; 17-09-331-010-0000
17-09-331-011-0000; 17-09-331-012-0000; 17-09-331-013-0000

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