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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



1324745043

Doc#: 1324745043 Fee: \$98.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 09/04/2013 01:42 PM Pg: 1 of 31

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 14-33-313-005-0000

Address:

Street: 1723 N. HALSTED STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60614

Lender: THOROFARE ASSET BASED LENDING FUND II, L.P.

Borrower: ACUMEN, LLC

Loan / Mortgage Amount: \$3,500,000.00

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.

FIDELITY NATIONAL TITLE 999100815 DL

Certificate number: 5484411B-2089-4565-946A-3144EE0307C3

Execution date: 08/30/2013

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PREPARED BY AND WHEN)
RECORDED RETURN TO:)
)
 Steckbauer Weinhart, LLP)
 333 South Hope Street, 36th Floor)
 Los Angeles, CA 90071)
 Attention: Brian S. Weinhart)
)
)
)
)
)
)
)

(Space Above For Recording Use)

THIS MORTGAGE SECURES A NOTE WHICH PROVIDES FOR A FIXED INTEREST RATE

MORTGAGE WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING

THE PARTIES TO THIS MORTGAGE WITH ABSOLUTE ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING ("**Mortgage**"), made as of August 30, 2013 (the "**Effective Date**"), are **Acumen, LLC**, an Illinois Series limited liability company ("**Mortgagor**") for the benefit of Thorofare Asset Based Lending Fund II, L.P., A Delaware limited partnership ("**Mortgagee**"). The mailing address of Mortgagor and Mortgagee are the addresses for those parties set forth or referred to in Section 9.8 below.

ARTICLE 1. GRANT

1.1 **GRANT.** For the purposes of and upon the terms and conditions in this Mortgage, Mortgagor irrevocably grants, conveys, bargains, mortgages, warrants, encumbers, assigns, transfers, hypothecates, pledges, sets over, and grants a security interest and assigns to Mortgagee all of that real property located in Cook County, State of Illinois, commonly known as 1723 N. Halsted Street, Chicago, IL 60614 and more particularly described on Exhibit A attached hereto, together with all buildings and other improvements, fixtures and equipment now or hereafter located on such real property, all right, title, interest, and privileges of Mortgagor in and to all streets, roads, and alleys used in connection with or pertaining to such real property, all water and water rights, minerals, oil and gas, and other hydrocarbon substances in, on or under such real property, all appurtenances, easements, rights and rights of way appurtenant or related thereto, and all air rights, development rights and credits, licenses and permits related to such real property. All interest or estate which Mortgagor has or may hereafter acquire in the property described above, and all additions and accretions thereto, and the proceeds of any of the foregoing, are collectively referred to herein as the "**Property**". The listing of specific rights or property shall not be interpreted as a limit of general terms.

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1.2 **WARRANTY OF TITLE; USE OF PROPERTY.** Mortgagor warrants that it is the sole owner of good and marketable unencumbered fee simple title to the Property, subject only to those exceptions approved by Mortgagee in writing. Mortgagor warrants that the Property is not used principally for agricultural or farming purposes, and that the Property is not homestead property.

1.3 **USE OF PROCEEDS.** Mortgagor represents and warrants to Mortgagee that the proceeds of the obligations secured hereby shall be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire principal obligations secured by this Mortgage constitute (i) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4(1)(c), and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1)(l).

ARTICLE 2. OBLIGATIONS SECURED

2.1 **OBLIGATIONS SECURED.** Mortgagor makes this Mortgage for the purpose of securing: (a) the payment of Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000.00) together with interest thereon (the "Loan") pursuant to the terms of that certain Promissory Note Secured By Mortgage With Absolute Assignment Of Leases And Rents, Security Agreement And Fixture Filing, dated of even date herewith, executed by Mortgagor and payable to the order of the Mortgagee (collectively, together with all extensions, renewals, modifications, substitutions and amendments thereof, the "Note"); and (b) payment and performance of any future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when such future advance or obligation is evidenced by a writing which recites that it is secured by this Mortgage (collectively, the "Secured Obligations"). This Mortgage secures the payment of the entire indebtedness secured hereby; provided, however, that the total amount secured by this Mortgage (excluding interest, costs, expenses, charges, fees, protective advances and indemnification obligations, all of any type or nature) shall not exceed an amount equal to 300% of the face amount of the Note. This Mortgage is intended to and shall be valid and have priority over all subsequent liens and encumbrances, including statutory liens, excepting solely taxes and assessments levied on the real estate, to the extent of the maximum amount secured hereby.

2.2 **INCORPORATION.** The term "obligations" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges (if any), late charges and loan fees at any time accruing or assessed on any of the Secured Obligations, together with all costs of collecting the Secured Obligations. All terms of the Secured Obligations and the documents evidencing such obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and the rate of interest on one or more Secured Obligations may vary from time to time.

ARTICLE 3. ASSIGNMENT OF LEASES AND RENTS

3.1 **ASSIGNMENT.** Mortgagor hereby irrevocably assigns to Mortgagee all of Mortgagor's right, title and interest in, to and under: (a) all present and future leases of the

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Property or any portion thereof, all licenses and agreements relating to the management, leasing, occupancy or operation of the Property, whether such leases, licenses and agreements are now existing or entered into after the date hereof ("**Leases**"); and (b) the rents, issues, revenues, receipts, deposits and profits of the Property, including, without limitation, all amounts payable and all rights and benefits accruing to Mortgagor under the Leases ("**Payments**"). The term "Leases" shall also include all subleases and other agreements for the use or occupancy of the Property, all guarantees of and security for the tenant's performance thereunder, the right to exercise any landlord's liens and other remedies to which the landlord is entitled, and all amendments, extensions, renewals or modifications thereto. This is a present and absolute assignment, not an assignment for security purposes only, and Mortgagee's right to the Leases and Payments is not contingent, upon and may be exercised without, possession of the Property.

3.2 **GRANT OF LICENSE.** Mortgagee confers upon Mortgagor a revocable license ("**License**") to collect and retain the Payments as they become due and payable, until the occurrence of an Event of Default (as hereinafter defined). Upon an Event of Default, the License shall be automatically revoked and Mortgagee may collect and apply the Payments pursuant to the terms hereof without notice and without taking possession of the Property. All payments thereafter collected by Mortgagor shall be held by Mortgagor as trustee under a constructive trust for the benefit of Mortgagee. Mortgagor hereby irrevocably authorizes and directs the tenants under the Leases to rely upon and comply with any notice or demand by Mortgagee for the payment to Mortgagee of any rentals or other sums which may at any time become due under the Leases, or for the performance of any of the tenants' undertakings under the Leases, and the tenants shall have no duty to inquire as to whether any Event of Default has actually occurred or is then existing. Mortgagor hereby relieves the tenants from any liability to Mortgagee by reason of relying upon and complying with any such notice or demand by Mortgagee. Mortgagee may apply, in its sole discretion, any Payments so collected by Mortgagee against any Secured Obligation under the Loan Documents (as defined in the Note), whether existing on the date hereof or hereafter arising. Collection of any Payments by Mortgagee shall not cure or waive any Event of Default or notice of Event of Default or invalidate any acts done pursuant to such notice.

3.3 **EFFECT OF ASSIGNMENT.** The foregoing irrevocable assignment shall not cause Mortgagee to be: (a) a mortgagee in possession; (b) responsible or liable for the control, care, management or repair of the Property or for performing any of the terms, agreements, undertakings, obligations, representations, warranties, covenants and conditions of the Leases; (c) responsible or liable for any waste committed on the Property by the tenants under any of the Leases or any other parties, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee, invitee or other person; (d) responsible for or under any duty to produce rents or profits; or (e) directly or indirectly liable to Mortgagor or any other person as a consequence of the exercise or failure to exercise any of the rights, remedies or powers granted to Mortgagee hereunder or to perform or discharge any obligation, duty or liability of Mortgagor arising under the Leases.

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ARTICLE 4. SECURITY AGREEMENT AND FIXTURE FILING

4.1 **SECURITY INTEREST**. Mortgagor hereby grants and assigns to Mortgagee a security interest, to secure payment and performance of all of the Secured Obligations, in all of the following described personal property in which Mortgagor now or at any time hereafter has any interest (collectively, the "Collateral"):

All goods, building and other materials, supplies, inventory, work in process, equipment, machinery, fixtures, furniture, furnishings, signs and other personal property and embedded software included therein and supporting information, wherever situated, which are or are to be incorporated into, used in connection with, or appropriated for use on the Property; together with all Payments and other rents and security deposits derived from the Property; all inventory, accounts, cash receipts, deposit accounts, accounts receivable, contract rights, licenses, agreements, general intangibles, payment intangibles, software, chattel paper (whether electronic or tangible), instruments, documents, promissory notes, drafts, letters of credit, letter of credit rights, supporting obligations, insurance policies, insurance and condemnation awards and proceeds, proceeds of the sale of promissory notes, any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the ownership, management, leasing, operation, sale or disposition of the Property or any business now or hereafter conducted thereon by Mortgagor; all development rights and credits, and any and all permits, consents, approvals, licenses, authorizations and other rights granted by given by or obtained from, any governmental entity with respect to the Property; all water and water rights, wells and well rights, canals and canal rights, ditches and ditch rights, springs and spring rights, and reservoirs and reservoir rights appurtenant to or associated with the Property, whether decreed or undecreed, tributary, non-tributary or not non-tributary, surface or underground or appropriated or unappropriated, and all shares of stock in water, ditch, lateral and canal companies, well permits and all other evidences of any of such rights, all deposits or other security now or hereafter made with or given to utility companies by Mortgagor with respect to the Property; all advance payments of insurance premiums made by Mortgagor with respect to the Property; all plans, drawings and specifications relating to the Property; all loan funds held by Mortgagee, whether or not disbursed; all funds deposited with Mortgagee pursuant to any loan agreement; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Property or any portion thereof; all of Mortgagor's right, title and interest, now or hereafter acquired, to the payment of money from Mortgagee to Mortgagor under any swap, derivative, foreign exchange or hedge transaction or arrangement (or similar transaction or arrangement howsoever described or defined) at any time entered into between Mortgagor and Mortgagee in connection with the Note; together with all replacements and proceeds of, and additions and accessions to, any of the foregoing; together with all books, records and files relating to any of the foregoing.

As to all of the above described personal property which is or which hereafter becomes a "fixture" under applicable law, this Mortgage constitutes a fixture filing under the Illinois Uniform Commercial Code, as amended or recodified from time to time ("UCC").

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4.2 **RIGHTS OF MORTGAGEE.** Upon the occurrence of an Event of Default, Mortgagee shall have all the rights of a "Secured Party" under the UCC. In addition to such rights, Mortgagee may, but shall not be obligated to, at any time without notice and at the expense of Mortgagor: (a) give notice to any person of Mortgagee's rights hereunder and enforce such rights at law or in equity; (b) insure, protect, defend and preserve the Collateral or any rights or interests of Mortgagee therein; (c) inspect the Collateral; and (d) endorse, collect and receive any right to payment of money owing to Mortgagor under or from the Collateral. Mortgagee may: (i) upon written notice, require Mortgagor to assemble any or all of the Collateral and make it available to Mortgagee at a place designated by Mortgagee; (ii) without prior notice, enter upon the Property or other place where any of the Collateral may be located and take possession of, collect, sell, and dispose of any or all of the Collateral, and store the same at locations acceptable to Mortgagee at Mortgagor's expense; and/or (iii) sell, assign and deliver at any place or in any lawful manner all or any part of the Collateral and bid and become the purchaser at any such sales. Notwithstanding the above, in no event shall Mortgagee be deemed to have accepted any property other than cash in satisfaction of any obligation of Mortgagor to Mortgagee unless Mortgagee shall make an express written election of said remedy under the UCC or other applicable law.

Mortgagor acknowledges and agrees that a disposition of the Collateral in accordance with Mortgagee's rights and remedies as heretofore provided is a disposition thereof in a commercially reasonable manner and that ten (10) days prior notice of such disposition is commercially reasonable notice. Mortgagor further agrees that any sale or other disposition of all or any portion of the Collateral may be applied by Mortgagee first to the reasonable expenses in connection therewith, including reasonable attorneys' fees and disbursements, and then to the payment of the Secured Obligations.

4.3 **REPRESENTATIONS, WARRANTIES AND COVENANTS.** Mortgagor represents and warrants that: (a) Mortgagor's principal place of business is located at the address shown in Section 9.8 below; and (b) Mortgagor's legal name is exactly as set forth on the first page of this Mortgage and all of Mortgagor's organizational documents or agreements delivered to Mortgagee are complete and accurate in every respect. Mortgagor agrees: (i) not to change its name, and as applicable, its chief executive office, its principal residence or the jurisdiction in which it is organized and/or registered without giving Mortgagee thirty (30) day prior written notice thereof; (ii) to cooperate with Mortgagee in perfecting all security interests granted herein and in obtaining such agreements from third parties as Mortgagee deems necessary, proper or convenient in connection with the creation, preservation, perfection, priority or enforcement of any of its rights hereunder; and (iii) that Mortgagee is authorized to file financing statements in the name of Mortgagor to perfect Mortgagee's security interest in the Collateral.

ARTICLE 5. RIGHTS AND DUTIES OF THE PARTIES

5.1 **PERFORMANCE OF SECURED OBLIGATIONS.** Mortgagor shall promptly pay and perform each Secured Obligation when due. If Mortgagor fails to timely pay or perform any portion of the Secured Obligations (including taxes, assessments and insurance premiums), or if a legal proceeding is commenced that may significantly affect Mortgagee's rights in the Property, then Mortgagee may (but is not obligated to), at Mortgagor's expense, take such action as it considers to be necessary to protect the value of the Property and Mortgagee's

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rights in the Property, including the retaining of counsel, and any amount so expended by Mortgagee will be added to the Secured Obligations and will be payable by Mortgagor to Mortgagee on demand, together with interest thereon from the date of advance until paid at the default rate provided in the Note.

5.2 **TAXES AND ASSESSMENTS.** Mortgagor shall also pay prior to delinquency all taxes, assessments, levies and charges imposed upon the Property by any public authority or upon Mortgagee by reason of its interest in any Secured Obligation or in the Property, or by reason of any payment made to Mortgagee pursuant to any Secured Obligation.

5.3 **LIENS, ENCUMBRANCES AND CHARGES.** Mortgagor shall immediately discharge any lien not approved by Mortgagee in writing that has or may attain priority over this Mortgage.

5.4 **DUE ON SALE OR ENCUMBRANCE.** If the Property or any interest therein shall be sold, transferred, including, without limitation, through sale or transfer, directly or indirectly, of a majority or controlling interest in the corporate stock, partnership interests, or limited liability company membership interests of a Mortgagor or managing member or general partner of Mortgagor, mortgaged, assigned, further encumbered or leased, whether directly or indirectly, whether voluntarily, involuntarily or by operation of law, without the prior written consent of Mortgagee, THEN Mortgagee, in its sole discretion, may at anytime thereafter declare all Secured Obligations immediately due and payable and any such sale or transfer shall constitute an Event of Default.

5.5 **INSURANCE; CASUALTY.**

(a) Mortgagor, at its sole cost and expense, shall keep the Property insured during the term of this Mortgage for the mutual benefit of each Mortgagor and Mortgagee against loss or damage by any peril covered by a standard "special perils" or "all-risk-of-physical-loss" insurance policy including, without limitation, riot and civil commotion, acts of terrorism, vandalism, malicious mischief, burglary, theft and mysterious disappearance in an amount (i) equal to at least one hundred percent (100%) of the then "full replacement cost" of the Improvements and Equipment, without deduction for physical depreciation and (ii) such that the insurer would not deem Mortgagor a coinsurer under such policies. The policies of insurance carried in accordance with this Section 3 shall be paid annually in advance and shall contain the "Replacement Cost Endorsement" with a waiver of depreciation, and shall have a deductible no greater than \$10,000.00 unless so agreed by Mortgagee. In addition, Mortgagor may, at its option, retain the services of a firm to monitor the policies of insurance for conformance with this Mortgage, the cost of which shall be borne by Mortgagor.

(b) Mortgagor, at its sole cost and expense, for the mutual benefit of each Mortgagor and Mortgagee, shall also obtain and maintain during the term of this Mortgage the following policies of insurance:

(i) Flood insurance if any part of the Real Property is located in an area identified by the Secretary of Housing and Urban Development as an area having special

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flood hazards and in which flood insurance has been made available under the National Flood Insurance Act of 1968 (and any successor act thereto) in an amount at least equal to the outstanding principal amount of the Note or the maximum limit of coverage available with respect to the Improvements and Equipment under said Act, whichever is less.

(ii) Comprehensive public liability insurance, including broad form property damage, blanket contractual and personal injuries (including death resulting therefrom) coverages.

(iii) Rental loss insurance in an amount equal to at least one hundred percent (100%) of the aggregate annual amount of all rents and additional rents payable by all of the tenants under the Leases (whether or not such Leases are terminable in the event of a fire or casualty), such rental loss insurance to cover rental losses for a period of at least one (1) year after the date of the fire or casualty in question. The amount of such rental loss insurance shall be increased from time to time during the term of this Mortgage as and when new Leases and renewal Leases are entered into in accordance with the terms of this Mortgage, to reflect all increased rent and increased additional rent payable by all of the tenants under such renewal Leases and all rent and additional rent payable by all of the tenants under such new Leases.

(iv) Insurance against loss or damage from explosion of steam boilers, air conditioning equipment, high pressure piping, machinery and equipment, pressure vessels or similar apparatus now or hereafter installed in the Improvements.

(v) Such other insurance (including, without limitation, earthquake insurance) as may from time to time be reasonably required by Mortgagee in order to protect its interests.

(c) All policies of insurance (the "Policies") required pursuant to this Section 5.5 shall be issued by an insurer satisfactory to Mortgagee, shall be obtained from generally recognized, responsible insurance companies qualified or licensed to transact such business in the State of Illinois with an AM Best Rating of A-/VIII or better or otherwise satisfactory to the Mortgagee. Without limiting the required endorsements to the required policies, each shall contain a standard non-contributory mortgagee clause naming Mortgagee as the person to which all payments made by such insurance company shall be paid, and specifically referencing Mortgagee under such clause as Thorofare Asset Based Lending Fund II, L.P., 601 South Figueroa Street, Suite 2050, Los Angeles, California 90017, Attention: Mr. Kevin Miller, as mortgagee, its successor and assigns, as their interests may appear, (x) as an additional insured under all liability insurance policies excluding worker's compensation policies, (y) as the first mortgagee on all property insurance policies, and (z) as the loss payee on all loss of rents or loss of business income insurance policies and, if applicable, flood insurance policies, (iii) shall be maintained throughout the term of this Mortgage at the sole cost and expense of Mortgagor without cost or expense to Mortgagee, (iv) shall be delivered to Mortgagee, (v) shall contain an endorsement or agreement by the insurer that any loss shall be payable to Mortgagee in accordance with the terms of such policy notwithstanding any act or negligence of Mortgagee which might otherwise result in forfeiture of such insurance; (vi) shall waive all rights of subrogation against Mortgagee; (vii) shall contain

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such provisions as Mortgagee deems reasonably necessary or desirable to protect its interest including, without limitation, endorsements providing that neither Mortgagor, Mortgagee nor any other party shall be a co-insurer under such policies and that Mortgagee shall receive at least thirty (30) days prior written notice of any modification or cancellation and (viii) shall be satisfactory in form and substance to Mortgagee and shall be approved by Mortgagee as to amounts, form, risk coverage, deductibles, loss payees and insureds. All amounts recoverable thereunder are hereby assigned to Mortgagee. Not later than thirty (30) days prior to the expiration date of each of the policies, Mortgagor will deliver to Mortgagee satisfactory evidence of the renewal of each of the policies.

(d) If the improvements upon the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Mortgagor shall give prompt notice thereof to Mortgagee and prior to the making of any repairs thereto. Following the occurrence of fire or other casualty, Mortgagor, regardless of whether insurance proceeds are payable under the Policies or, if paid, are made available to Mortgagor by Mortgagee, shall promptly proceed with the repair, alteration, restoration, replacement or rebuilding of the Improvements as near as possible to their value, utility, condition and character prior to such damage or destruction. Such repairs, alterations, restoration, replacement and rebuilding are herein collectively referred to as the "**Restoration**". The Restoration shall be performed in accordance with the following provisions:

(i) Mortgagor shall procure, pay for and furnish to Mortgagee true copies of all required governmental permits, certificates and approvals with respect to the Restoration.

(ii) Mortgagor shall furnish Mortgagee, within thirty (30) days of the casualty, evidence reasonably satisfactory to Mortgagee of the cost to complete the Restoration.

(iii) If the Restoration involves structural work or the estimated cost to complete the Restoration exceeds five percent (5%) of the original principal amount of the Loan, the Restoration shall be conducted under the supervision of an architect (the "**Architect**") selected by Mortgagor and approved by Mortgagee (which approval shall not be unreasonably withheld), and no such Restoration shall be made except in accordance with detailed plans and specifications, detailed cost estimates and detailed work schedules approved by Mortgagee (which approval shall not be unreasonably withheld).

(iv) If the estimated cost of the Restoration shall exceed ten percent (10%) of the original principal amount of the Loan in the aggregate, at the request of Mortgagee, Mortgagor, before commencing any work, shall cause to be furnished to Mortgagee a surety bond or bonds, in form and substance reasonably satisfactory to Mortgagee, naming Mortgagor and Mortgagee as co-obligees, in an amount that is not less than the estimated cost of the Restoration, issued by a surety company or companies reasonably satisfactory to Mortgagee.

(v) The Restoration shall be prosecuted to completion with all due diligence and in an expeditious and first class workmanlike manner and in compliance with all

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laws and other governmental requirements, all permits, certificates and approvals, all requirements of fire underwriters and all insurance policies then in force with respect to the Real Property.

(vi) At all times when any work is in progress, Mortgagor shall maintain all insurance then required by law or customary with respect to such work, and, prior to the commencement of any work, shall furnish to Mortgagee duplicate originals or certificates of the policies therefor.

(vii) Upon completion of the Restoration, Mortgagor shall obtain (A) any occupancy permit which may be required for the Improvements and (B) all other governmental permits, certificates and approvals and all permits, certificates and approvals of fire underwriters which are required for or with respect to the Restoration, and shall furnish true copies thereof to Mortgagee.

(viii) An Event of Default (as hereinafter defined) shall be deemed to have occurred under this Mortgage if Mortgagor, after having commenced demolition or construction of any Improvements, shall abandon such demolition or the construction work or shall fail to complete such demolition and construction within a reasonable time after the commencement thereof.

(e) Mortgagor and Mortgagee shall jointly adjust and settle all insurance claims, provided, however, if an Event of Default shall have occurred and be continuing, Mortgagee shall have the right to adjust and settle such claims without the prior consent of Mortgagor. In the event of any insured loss, the payment for such loss shall be made directly to Mortgagee. Any insurance proceeds payable under any of the Policies may, at the option of Mortgagee, be used in one or more of the following ways: (w) applied to the Indebtedness, whether such Indebtedness then be matured or unmatured (such application to be without prepayment fee or premium, except that if an Event of Default, or an event which with notice and/or the passage of time, or both, would constitute an Event of Default, has occurred and remains uncured, then such application shall be subject to the applicable premium computed in accordance with the Note), (x) used to fulfill any of the covenants contained herein as Mortgagee may determine, (y) used to replace or restore the property to a condition satisfactory to Mortgagee, or (z) released to Mortgagor. Notwithstanding the foregoing, provided (1) not more than ten percent (10%) of the gross area of the improvements is directly affected by such damage, destruction or loss and the amount of the loss does not exceed ten percent (10%) of the original principal amount of the Loan, (2) no Event of Default or event that with the passage of time or giving of notice or both would constitute a default has occurred hereunder, under the Note or under any of the other Loan Documents and remains uncured at the time of such application, (3) the insurer does not deny liability to any named insured, (4) each major and/or anchor tenant (as determined by Mortgagee) whose Lease permits termination thereof as a result of such insured loss, agrees in writing to continue its Lease, (5) rental loss insurance is available and in force and effect to offset in full any abatement of rent to which any tenant may be entitled as a result of such damage, destruction or loss, (6) the remaining improvements continue at all times to comply with all applicable building, zoning and other land use laws and regulations, (7) in

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Mortgagee's judgment, the Restoration is practicable and can be completed within one (1) year after the damage, destruction or loss and at least one (1) year prior to the Maturity Date (as such term is defined in the Note) and (8) rebuilding of the improvements to substantially identical size, condition and use as existed prior to the casualty is permitted by all applicable laws and ordinances, then all of such proceeds shall be used for Restoration. Any application of insurance proceeds to the Indebtedness shall be to the unpaid installments of principal due under the Note in the inverse order of their maturity, such that the regular payments under the Note shall not be reduced or altered in any manner. In the event the above criteria are satisfied (including that no Event of Default or event that, with the passage of time or giving of notice or both, would constitute a default has occurred hereunder, under the Note or other Loan Documents) or Mortgagee otherwise elects to allow the use of such proceeds for the Restoration, such proceeds shall be disbursed in accordance with the following provisions:

(i) Each request for an advance of insurance proceeds shall be made on seven (7) days prior notice to Mortgagee and shall be accompanied by a certificate of the Architect, if one be required under this Section 5.5 above, otherwise by an executive officer or managing general partner or managing member of Mortgagor, stating (1) that all work completed to date has been performed in compliance with the approved plans and specifications and in accordance with all provisions of law, (2) the sum requested is properly required to reimburse Mortgagor for payments by Mortgagor to, or is properly due to, the contractor, subcontractors, materialmen, laborers, engineers, architects or other persons rendering services or materials for the Restoration (giving a brief description of such services and materials), and that when added to all sums, if any, previously disbursed by Mortgagee, does not exceed the value of the work done to the date of such certificate and (3) that the amount of such proceeds remaining in the hands of Mortgagee will be sufficient on completion of the work to pay the same in full (giving, in such reasonable detail as Mortgagee may require, an estimate of the cost of such completion).

(ii) Each request for an advance of insurance proceeds shall, to the extent permitted under applicable law, be accompanied by waivers of liens satisfactory to Mortgagee covering that part of the Restoration previously paid for, if any, and by a search prepared by a title company or by other evidence reasonably satisfactory to Mortgagee including without limitation a title endorsement satisfactory to Mortgagee if available in the state where the Real Property is located, that there has not been filed with respect to the Real Property any mechanic's lien or other lien or instrument and that there exist no encumbrances on or affecting the Real Property other than the Permitted Encumbrances or otherwise approved by Mortgagee. In addition to the foregoing, the request for the final advance shall be accompanied by (1) any final occupancy permit which may be required for the Improvements, (2) all other governmental permits, certificates and approvals and all other permits necessary for the occupancy and operation of the Property, (3) Tenant estoppels from tenants whose space was affected and (4) final lien waivers from all contractors, subcontractors and materialmen.

(iii) No advance of insurance proceeds shall be made if there exists an Event of Default or event which with the passage of time or the giving of notice or both would constitute a default on the part of Mortgagor under this Mortgage, the Note or any other Loan Document.

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(iv) If the cost of the Restoration (as reasonably estimated by Mortgagee) at any time shall exceed the amount of the insurance proceeds available therefor, insurance proceeds shall not be advanced until Mortgagor, before commencing the Restoration or continuing the Restoration, as the case may be, shall deposit the full amount of the deficiency (or other assurances reasonably satisfactory to Mortgagee) with Mortgagee and the amount so deposited shall first be applied toward the cost of the Restoration before any portion of the insurance proceeds is disbursed for such purpose.

(v) Upon completion of the Restoration and payment in full therefor, or upon failure on the part of Mortgagor promptly to commence or diligently to continue the Restoration, or at any time upon request by Mortgagor, Mortgagee may apply the amount of any such proceeds then or thereafter in the hands of Mortgagee to the payment of the Loan; provided, however, that nothing herein contained shall prevent Mortgagee from applying at any time the whole or any part of such proceeds to the curing of any default that has not been cured within the applicable cure period under this Mortgage, the Note or any other Loan Document.

(vi) Insurance proceeds and any additional funds deposited by **Mortgagor** with **Mortgagee** shall constitute additional security for the Indebtedness. **Mortgagor** shall execute, deliver, file and/or record, at its expense, such documents and instruments as **Mortgagee** deems necessary or advisable to grant to **Mortgagee** a perfected, first priority security interest in the insurance proceeds and such additional funds. If **Mortgagee** elects to have the insurance proceeds applied to Restoration, (i) the insurance proceeds shall be, at **Mortgagee's** election, disbursed in installments by **Mortgagee** or by a disbursing agent ("Depository") selected by **Mortgagee** and whose fees and expenses shall be paid by **Mortgagor** in the manner provided in Section 3(e) above and (ii) all costs and expenses incurred by **Mortgagee** in connection with the Restoration, including, without limitation, reasonable counsel fees and costs, shall be paid by **Mortgagor**.

(f) **Collateral Protection Act.** Borrower is hereby notified pursuant to 815 ILCS 180/1 et. seq. as follows:

"Unless you [Borrower] provide us [Lender] with evidence of the insurance coverage required by your agreement with us [this Mortgage and the other Loan Documents], we may purchase insurance at your expense to protect our interests in your collateral. This insurance may, but need not, protect your interests. The coverage that we purchase may not pay any claim that you make or any claim that is made against you in connection with the collateral. You may later cancel any insurance purchased by us, but only after providing us with evidence that you have obtained insurance as required by our agreement. If we purchase insurance for the collateral, you will be responsible for the costs of that insurance, including interest and any other charges we may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to your total outstanding balance or obligation. The costs of the insurance may be more than the cost of insurance you may be able to obtain on your own."

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5.6 DAMAGES; INSURANCE AND CONDEMNATION PROCEEDS.

(a) The following (whether now existing or hereafter arising) are all absolutely and irrevocably assigned by Mortgagor to Mortgagee and, at the request of Mortgagee, shall be paid directly to Mortgagee: (i) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Property or Collateral; (ii) all other claims and awards for damages to, or decrease in value of, all or any part of, or any interest in, the Property or Collateral; (iii) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Property or Collateral; and (iv) all interest which may accrue on any of the foregoing. Subject to applicable law, and without regard to any requirement contained in this Mortgage, Mortgagee may at its discretion apply all or any of the proceeds it receives to its expenses in settling, prosecuting or defending any claim and may apply the balance to the Secured Obligations in any order acceptable to Mortgagee, and/or Mortgagee may release all or any part of the proceeds to Mortgagor upon any conditions Mortgagee may impose. Mortgagee may commence, appear in, defend or prosecute any assigned claim or action and may adjust, compromise, settle and collect all claims and awards assigned to Mortgagee; provided, however, in no event shall Mortgagee be responsible for any failure to collect any claim or award, regardless of the cause of the failure, including, without limitation, any malfeasance or nonfeasance by Mortgagee or its employees or agents.

(b) At its sole option, Mortgagee may permit insurance or condemnation proceeds held by Mortgagee to be used for repair or restoration but may condition such application upon reasonable conditions, including, without limitation: (i) the deposit with Mortgagee of such additional funds which Mortgagee determines are needed to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (ii) the establishment of an arrangement for lien releases and disbursement of funds acceptable to Mortgagee; (iii) the delivery to Mortgagee of plans and specifications for the work, a contract for the work signed by a contractor acceptable to Mortgagee, a cost breakdown for the work and a payment and performance bond for the work, all of which shall be acceptable to Mortgagee; and (iv) the delivery to Mortgagee of evidence acceptable to Mortgagee (aa) that after completion of the work the income from the Property will be sufficient to pay all expenses and debt service for the Property; (bb) of the continuation of Leases acceptable to and required by Mortgagee; (cc) that upon completion of the work, the size, capacity and total value of the Property will be at least as great as it was before the damage or condemnation occurred; (dd) that there has been no material adverse change in the financial condition or credit of Mortgagor and any guarantors since the date of this Mortgage; and (ee) of the satisfaction of any additional conditions that Mortgagee may reasonably establish to protect its security. Mortgagor hereby acknowledges that the conditions described above are reasonable, and, if such conditions have not been satisfied within thirty (30) days of receipt by Mortgagee of such insurance or condemnation proceeds, then Mortgagee may apply such insurance or condemnation proceeds to pay the Secured Obligations in such order and amounts as Mortgagee in its sole discretion may choose.

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5.7 **DEFENSE AND NOTICE OF LOSSES, CLAIMS AND ACTIONS.** At Mortgagor's sole expense, Mortgagor shall protect, preserve and defend the Property and Collateral and title to and right of possession of the Property and Collateral, the security hereof and the rights and powers of Mortgagee hereunder against all adverse claims. Mortgagor shall give Mortgagee prompt notice in writing of the assertion of any claim, of the filing of any action or proceeding, of any material damage to the Property or Collateral and of any condemnation offer or action.

5.8 **RELEASES, EXTENSIONS, MODIFICATIONS AND ADDITIONAL SECURITY.** Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations ("**Interested Parties**"), Mortgagee may, from time to time, release any person or entity from liability for the payment or performance of any Secured Obligation, take any action or make any agreement extending the maturity or otherwise altering the terms or increasing the amount of any Secured Obligation, or accept additional security or release all or a portion of the Property and other security for the Secured Obligations. None of the foregoing actions shall release or reduce the personal liability of any of said Interested Parties, or release or impair the priority of the lien of and security interests created by this Mortgagee upon the Property and Collateral.

5.9 **SUBROGATION.** Mortgagee shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Mortgagee pursuant to the Loan Documents or by the proceeds of any loan secured by this Mortgage.

5.10 **RIGHT OF INSPECTION.** Mortgagee, its agents and employees, may enter the Property at any reasonable time for the purpose of inspecting the Property and Collateral and ascertaining Mortgagor's compliance with the terms hereof.

ARTICLE 6. DEFAULT PROVISIONS

6.1 **DEFAULT.** For all purposes hereof, the term "**Event of Default**" shall mean any default under the Note or any of the other Loan Documents, including this Mortgage.

6.2 **RIGHTS AND REMEDIES.** At any time after an Event of Default, Mortgagee shall have all the following rights and remedies:

(a) With or without notice, to declare all Secured Obligations immediately due and payable;

(b) With or without notice, and without releasing Mortgagor from any Secured Obligation, and without becoming a mortgagee in possession, to cure any breach or Event of Default of Mortgagor and, in connection therewith, to enter upon the Property and do such acts and things as Mortgagee deems necessary or desirable to protect the security hereof, including, without limitation: (i) to appear in and defend any action or proceeding purporting to affect the security of this Mortgage or the rights or powers of Mortgagee under this Mortgage; (ii) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of Mortgagee, is or may be senior in priority to this Mortgage, the judgment of Mortgagee being

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conclusive as between the parties hereto; (iii) to obtain insurance and to pay any premiums or charges with respect to insurance required to be carried under this Mortgage; or (iv) to employ counsel, accountants, contractors and other appropriate persons;

(c) To commence and maintain an action or actions in any court of competent jurisdiction to foreclose this Mortgage or to obtain specific enforcement of the covenants of Mortgagor hereunder, and Mortgagor agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Mortgagor waives the defense of laches and any applicable statute of limitations;

(d) To apply to a court of competent jurisdiction for and to obtain appointment of a receiver of the Property as a matter of strict right and without regard to the adequacy of the security for the repayment of the Secured Obligations, the existence of a declaration that the Secured Obligations are immediately due and payable, or the filing of a notice of default, and Mortgagor hereby consents to such appointment;

(e) To enter upon, possess, manage and operate the Property or any part thereof;

(f) To resort to and realize upon the security hereunder and any other security now or later held by Mortgagee concurrently or successively and in one or several consolidated or independent actions; and

Upon sale of the Property at any foreclosure, Mortgagee may credit bid (as determined by Mortgagee in its sole and absolute discretion) all or any portion of the Secured Obligations. In determining such credit bid, Mortgagee may, but is not obligated to, take into account all or any of the following: (i) appraisals of the Property as such appraisals may be discounted or adjusted by Mortgagee in its sole and absolute underwriting discretion; (ii) expenses and costs incurred by Mortgagee with respect to the Property prior to foreclosure; (iii) expenses and costs which Mortgagee anticipates will be incurred with respect to the Property after foreclosure, but prior to resale, including, without limitation, the costs of any structural reports, hazardous waste reports or any remediation costs related thereto; (iv) anticipated discounts upon resale of the Property as a distressed or foreclosed property; and (v) such other factors or matters that Mortgagee deems appropriate. In regard to the above, Mortgagor acknowledges and agrees that: (w) Mortgagee is not required to use any or all of the foregoing factors to determine the amount of its credit bid; (x) this Section does not impose upon Mortgagee any additional obligations that are not imposed by law at the time the credit bid is made; (y) the amount of Mortgagee's credit bid need not have any relation to any loan-to-value ratios specified in the Loan Documents or previously discussed between Mortgagor and Mortgagee; and (z) Mortgagee's credit bid may be higher or lower than any appraised value of the Property.

6.3 APPLICATION OF FORECLOSURE SALE PROCEEDS. Except as may be otherwise required by applicable law, after deducting all costs, fees and expenses of Mortgagee, including, without limitation, cost of evidence of title and attorneys' fees in connection with sale

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and costs and expenses of sale and of any judicial proceeding wherein such sale may be made, all proceeds of any foreclosure sale shall be applied: (a) to payment of all sums expended by Mortgagee under the terms hereof and not then repaid, with accrued interest at the rate of interest specified in the Note to be applicable on or after maturity or acceleration of the Note; (b) to payment of all other Secured Obligations; and (c) the remainder, if any, to the person or persons legally entitled thereto.

6.4 **APPLICATION OF OTHER SUMS.** All sums received by Mortgagee under this Mortgage other than those described in Section 6.3, less all costs and expenses incurred by Mortgagee or any receiver, including, without limitation, attorneys' fees, shall be applied in payment of the Secured Obligations in such order as Mortgagee shall determine in its sole discretion; provided, however, Mortgagee shall have no liability for funds not actually received by Mortgagee.

6.5 **NO CURE OR WAIVER.** Neither Mortgagee's nor any receiver's entry upon and taking possession of all or any part of the Property and Collateral, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise or failure to exercise of any other right or remedy by Mortgagee or any receiver, shall cure or waive any breach, Event of Default or notice of Event of Default under this Mortgage, or nullify the effect of any notice of Event of Default or sale (unless all Secured Obligations then due have been paid and performed and Mortgagor has cured all other Events of Default), or impair the status of the security, or prejudice Mortgagee in the exercise of any right or remedy, or be construed as an affirmation by Mortgagee of any tenancy, lease or option or a subordination of the lien of, or security interests created by, this Mortgage.

6.6 **PAYMENT OF COSTS, EXPENSES AND ATTORNEYS' FEES.** Mortgagor agrees to pay to Mortgagee immediately and without demand all costs and expenses incurred by Mortgagee pursuant to this Article 6 (including, without limitation, court costs and attorneys' fees, whether incurred in litigation, including, without limitation, at trial, on appeal or in any bankruptcy or other proceeding, or not and the costs of any appraisals obtained in connection with a determination of the fair value of the Property). In addition, Mortgagor will pay a reasonable fee for title searches, sale guarantees, publication costs, appraisal reports or environmental assessments made in preparation for and in the conduct of any such proceedings or suit. All of the foregoing amounts must be paid to Mortgagee as part of any reinstatement tendered hereunder. In the event of any legal proceedings, court costs and attorneys' fees shall be set by the court and not by jury and shall be included in any judgment obtained by Mortgagee.

6.7 **POWER TO FILE NOTICES AND CURE DEFAULTS.** Mortgagor hereby irrevocably appoints Mortgagee and its successors and assigns, as its attorney-in-fact, which agency is coupled with an interest, to prepare, execute and file or record any document necessary to create, perfect or preserve Mortgagee's security interests and rights in or to any of the Property and Collateral, and upon the occurrence of an event, act or omission which, with notice or passage of time or both, would constitute an Event of Default, Mortgagee may perform any obligation of Mortgagor hereunder.

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6.8 **REMEDIES CUMULATIVE**. All rights and remedies of Mortgagee provided hereunder are cumulative and are in addition to all rights and remedies provided by applicable law or in any other agreements between Mortgagor and Mortgagee. No failure on the part of Mortgagee to exercise any of its rights hereunder arising upon any Event of Default shall be construed to prejudice its rights upon the occurrence of any other or subsequent Event of Default. No delay on the part of Mortgagee in exercising any such rights shall be construed to preclude it from the exercise thereof at any time while that Event of Default is continuing. Mortgagee may enforce any one or more remedies or rights hereunder successively or concurrently. By accepting payment or performance of any of the Secured Obligations after its due date, Mortgagee shall not waive the agreement contained herein that time is of the essence, nor shall Mortgagee waive either its right to require prompt payment or performance when due of the remainder of the Secured Obligations or its right to consider the failure to so pay or perform an Event of Default.

6.9 **ILLINOIS MORTGAGE FORECLOSURE LAW**. It is the intention of Mortgagor and Mortgagee that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101 et seq., and with respect to such Act, Mortgagor agrees and covenants that:

(a) Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. 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. If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 6.2 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 Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee 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 specifically in this Mortgage, shall be added to the indebtedness secured hereby and/or by the judgment of foreclosure.

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

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(c) In addition to any provision of this Mortgage authorizing Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in the possession of the Property or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties and provisions for in Sections 15-1701 and 15-1703 of the Act.

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

(e) 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 Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Section 5/15-1601 of the Act or other applicable law or replacement statutes.

ARTICLE 7 WAIVERS; SUBROGATION

Mortgagor agrees as follows:

7.1 **CONDITIONS TO EXERCISE OF RIGHTS.** Mortgagor hereby waives any right it may now or hereafter have to require Mortgagee, as a condition to the exercise of any remedy or other right against Mortgagor hereunder or under any other document executed by Mortgagor in connection with any Secured Obligation: (a) to proceed against any Mortgagor or other person, or against any other collateral assigned to Mortgagee by Mortgagor or other person; (b) to pursue any other right or remedy in Mortgagee's power; (c) to give notice of the time, place or terms of any public or private sale of real or personal property collateral assigned to Mortgagee by Mortgagor, or otherwise to comply with the Illinois Uniform Commercial Code (as modified or recodified from time to time) with respect to any such personal property collateral; or (d) to make or give (except as otherwise expressly provided in the Loan Documents) any presentment, demand, protest, notice of dishonor, notice of protest or other demand or notice of any kind in connection with any Secured Obligation or any collateral (other than the Property) for any Secured Obligation.

7.2 **DEFENSES.** Mortgagor hereby waives any defense it may now or hereafter have that relates to: (a) any disability or other defense of any Mortgagor or other person; (b) the cessation, from any cause other than full performance, of the obligations of Mortgagor or any other person; (c) the application of the proceeds of any Secured Obligation, by any Mortgagor or other person, for purposes other than the purposes represented to Mortgagor by any Mortgagor or otherwise intended or understood by Mortgagor; (d) any act or omission by Mortgagee which directly or indirectly results in or contributes to the release of any Mortgagor or other person or any collateral for any Secured Obligation; (e) the unenforceability or invalidity of any collateral assignment (other than this Mortgage) or guaranty with respect to any Secured Obligation, or the lack of perfection or continuing perfection or lack of priority of any lien (other than the lien

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hereof) which secures any Secured Obligation; (f) any failure of Mortgagee to marshal assets in favor of Mortgagor or any other person; (g) any modification of any Secured Obligation, including any renewal, extension, acceleration or increase in interest rate; (h) any and all rights and defenses arising out of an election of remedies by Mortgagee, even though that election of remedies, may have or has destroyed Mortgagor's rights of subrogation and reimbursement against the principal by the operation of law or otherwise; (i) any law which provides that the obligation of a surety or guarantor must neither be larger in amount nor in other respects more burdensome than that of the principal or which reduces a surety's or guarantor's obligation in proportion to the principal obligation; (j) any failure of Mortgagee to file or enforce a claim in any bankruptcy or other proceeding with respect to any person; (k) the election by Mortgagee, in any bankruptcy proceeding of any person, of the application or non-application of Section 1111(b)(2) of the United States Bankruptcy Code; (l) any extension of credit or the grant of any lien under Section 364 of the United States Bankruptcy Code; (m) any use of cash collateral under Section 363 of the United States Bankruptcy Code; or (n) any agreement or stipulation with respect to the provision of adequate protection in any bankruptcy proceeding of any person. Mortgagor further waives any and all rights and defenses that Mortgagor may have because Mortgagor's debt is secured by real property; this means, among other things, that: (1) Mortgagee may collect from Mortgagor without first foreclosing on any real or personal property collateral pledged by Borrower; (2) if Mortgagee forecloses on any real property collateral pledged by Mortgagor, then (A) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (B) Mortgagee may collect from Mortgagor even if Mortgagee, by foreclosing on the real property collateral, has destroyed any right any Mortgagor may have to collect from any other Mortgagor. The foregoing sentence is an unconditional and irrevocable waiver of any rights and defenses Mortgagor may have because Mortgagor's debt is secured by real property. Without limiting the generality of the foregoing or any other provision hereof, Mortgagor further expressly waives to the extent permitted by law any and all rights and defenses, including without limitation any rights of subrogation, reimbursement, indemnification and contribution, which might otherwise be available to Mortgagor under law.

7.3 **SUBROGATION.** Mortgagor hereby waives, until such time as all Secured Obligations are fully performed: (a) any right of subrogation against any Borrower that relates to any Secured Obligation; (b) any right to enforce any remedy Mortgagor may now or hereafter have against any Borrower that relates to any Secured Obligation; and (c) any right to participate in any collateral now or hereafter assigned to Mortgagee with respect to any Secured Obligation.

7.4 **BORROWER INFORMATION. Mortgagor warrants and agrees:** (a) that Mortgagee would not make the Loan but for this Mortgage; (b) that Mortgagor has not relied, and will not rely, on any representations or warranties by Mortgagee to Mortgagor with respect to the credit worthiness of any Mortgagor or the prospects of repayment of any Secured Obligation from sources other than the Property; (c) that Mortgagor has established and/or will establish adequate means of obtaining from each Mortgagor on a continuing basis financial and other information pertaining to the business operations, if any, and financial condition of each Mortgagor; (d) that Mortgagor assumes full responsibility for keeping informed with respect to each Mortgagor's business operations, if any, and financial condition; (e) that Mortgagee shall have no duty to disclose or report to Mortgagor any information now or hereafter known to Mortgagee with respect to any Mortgagor, including, without limitation, any information relating

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to any of Mortgagor's business operations or financial condition; and (f) that Mortgagor is familiar with the terms and conditions of the Loan Documents and consents to all provisions thereof.

ARTICLE 8. HAZARDOUS MATERIALS

8.1 **Special Representations and Warranties**. Without in any way limiting the other representations and warranties set forth in this Mortgage, and after reasonable investigation and inquiry, Mortgagor hereby represents and warrants to the best of Mortgagor's knowledge as of the date of this Mortgage as follows:

(a) **Hazardous Materials**. The Property is not and has not been a site for the use, generation, manufacture, storage, treatment, release, threatened release, discharge, disposal, transportation or presence of any oil, flammable explosives, asbestos, urea formaldehyde insulation, radioactive materials, hazardous wastes, toxic or contaminated substances or similar materials, including, without limitation, any substances which are "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "wastes," "regulated substances," "industrial solid wastes," or "pollutants" under the Hazardous Materials Laws, as described below, and/or other applicable environmental laws, ordinances and regulations (collectively, the "**Hazardous Materials**").

(b) **Hazardous Materials Laws**. The Property is in compliance with all laws, ordinances and regulations relating to Hazardous Materials ("**Hazardous Materials Laws**"), including, without limitation, the Clean Air Act, as amended, 42 U.S.C. Section 7401 *et seq.*; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 *et seq.*; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 *et seq.*; the Comprehensive Environment Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986, "CERCLA"), 42 U.S.C. Section 9601 *et seq.*; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 *et seq.*; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. Section 11001 *et seq.*; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801 *et seq.*; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f *et seq.*; and all comparable state and local laws, laws of other jurisdictions or orders and regulations.

(c) **Hazardous Materials Claims**. There are no claims or actions ("**Hazardous Materials Claims**") pending or threatened against Mortgagor or the Property by any governmental entity or agency or by any other person or entity relating to Hazardous Materials or pursuant to the Hazardous Materials Laws.

(d) **Adjacent or Nearby Property**. There has been no occurrence or condition on any real property adjoining or in the vicinity of the Property that could cause the Property or any part thereof to become contaminated through the migration of Hazardous Materials onto, above or under the Property.

8.2 **Hazardous Materials Covenants**. Mortgagor agrees as follows:

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(a) **No Hazardous Activities.** Mortgagor shall not cause or permit the Property to be used as a site for the use, generation, manufacture, storage, treatment, release, discharge, disposal, transportation or presence of any Hazardous Materials.

(b) **Compliance.** Mortgagor shall comply and cause the Property and Collateral to comply with all Hazardous Materials Laws.

(c) **Notices.** Mortgagor shall immediately notify Mortgagee in writing of: (A) the discovery of any Hazardous Materials on, under or about the Property and Collateral; (B) any knowledge by Mortgagor that the Property and Collateral does not comply with any Hazardous Materials Laws; (C) any Hazardous Materials Claims; and (D) the discovery of any occurrence or condition on any real property adjoining or in the vicinity of the Property and Collateral that could cause the Property and Collateral or any part thereof to become contaminated through the migration of Hazardous Materials onto, above or under the Property.

(d) **Remedial Action.** In response to the presence of any Hazardous Materials on, under or about the Property, Mortgagor shall immediately take, at Mortgagor's sole expense, all remedial action required by any Hazardous Materials Laws or any judgment, consent decree, settlement or compromise in respect to any Hazardous Materials Claims.

8.3 **Inspection By Mortgagee.** Upon reasonable prior notice to Mortgagor, Mortgagee, its employees and agents may from time to time (whether before or after the commencement of a foreclosure proceeding) enter and inspect the Property and Collateral for the purpose of determining the existence, location, nature and magnitude of any past or present release or threatened release of any Hazardous Materials into, onto, beneath or from the Property and Collateral.

8.4 **Hazardous Materials Indemnity.** MORTGAGOR HEREBY AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS MORTGAGEE, ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, SUCCESSORS AND ASSIGNS FOR, FROM AND AGAINST ANY AND ALL LOSSES, DAMAGES, LIABILITIES, CLAIMS, ACTIONS, JUDGMENTS, COURT COSTS AND LEGAL OR OTHER EXPENSES (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES AND EXPENSES) WHICH MORTGAGEE MAY INCUR AS A DIRECT OR INDIRECT CONSEQUENCE OF THE USE, GENERATION, MANUFACTURE, STORAGE, DISPOSAL, THREATENED DISPOSAL, TRANSPORTATION OR PRESENCE OF HAZARDOUS MATERIALS IN, ON, UNDER OR ABOUT THE PROPERTY AND COLLATERAL. MORTGAGOR SHALL IMMEDIATELY PAY TO MORTGAGEE UPON DEMAND ANY AMOUNTS OWING UNDER THIS INDEMNITY, TOGETHER WITH INTEREST FROM THE DATE THE INDEBTEDNESS ARISES UNTIL PAID AT THE RATE OF INTEREST APPLICABLE TO THE PRINCIPAL BALANCE OF THE NOTE. MORTGAGOR'S DUTY AND OBLIGATIONS TO DEFEND, INDEMNIFY AND HOLD HARMLESS MORTGAGEE SHALL SURVIVE THE CANCELLATION OF THE NOTE AND THE RELEASE OR PARTIAL RELEASE OF THE MORTGAGE.

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ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 **ADDITIONAL PROVISIONS.** The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and to the Property and Collateral and such further rights and agreements are incorporated herein by this reference. Where Mortgagor and Borrower are not the same, "Mortgagor" means the owner of the Property in any provision dealing with the Property, "Borrower" means the obligor in any provision dealing with the Secured Obligations, and both where the context so requires.

9.2 **ATTORNEYS' FEES.** If the Note is placed with an attorney for collection or if an attorney is engaged by Mortgagee to exercise rights or remedies or otherwise take actions to collect thereunder or under any other Loan Document, or if suit be instituted for collection, enforcement of rights and remedies, then in all events, Mortgagor agree(s) to pay all reasonable costs of collection, exercise of remedies or rights or other assertion of claims, including, but not limited to, reasonable attorneys' fees, whether or not court proceedings are instituted, and, where instituted, whether in district court, appellate court, or bankruptcy court.

9.3 **NO WAIVER.** No previous waiver and no failure or delay by Mortgagee in acting with respect to the terms of the Note or this Mortgage shall constitute a waiver of any breach, default, or failure of condition under the Note, this Mortgage or the obligations secured thereby. A waiver of any term of the Note, this Mortgage or of any of the obligations secured thereby must be made in writing and shall be limited to the express written terms of such waiver. In the event of any inconsistencies between the terms of the Note and the terms of any other document related to the loan evidenced by the Note, the terms of the Note shall prevail.

9.4 **MERGER.** No merger shall occur as a result of Mortgagee's acquiring any other estate in, or any other lien on, the Property unless Mortgagee consents to a merger in writing.

9.5 **SUCCESSORS IN INTEREST.** The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto; provided, however, that this Section does not waive or modify the provisions of the Section above titled "Due on Sale or Encumbrance". Mortgagee has the right to transfer or assign its rights under this Mortgage. Any assignee or transferee of Mortgagee shall be entitled to all the benefits afforded to Mortgagee under this Mortgage.

9.6 **GOVERNING LAW.** This Mortgage shall be construed in accordance with the laws of the state where the Property is located, except to the extent that Federal laws preempt the laws of such state.

9.7 **EXHIBITS INCORPORATED.** All exhibits, schedules or other items attached hereto are incorporated into this Mortgage by such attachment for all purposes.

9.8 **NOTICES.** All notices, demands or other communications required or permitted to be given pursuant to the provisions of this Mortgage shall be in writing and either (a) hand delivered, (b) sent by registered or certified mail, postage prepaid, return receipt requested,

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(c) sent by telefax (with answer back acknowledged), or (d) sent by reputable overnight prepaid courier, addressed to the party to be so notified at its address set forth, or to such other address as such party may hereafter specify in accordance with the provisions of this Section. Any Notice shall be deemed to have been effectively given and received: (i) in the case of hand delivery, at the time of delivery on a business day (or if delivered on a day other than a business day, then the next succeeding business day); (ii) in the case of registered or certified mail, three (3) business days from transmittal; (iii) in the case of reputable overnight prepaid courier, one (1) business day subsequent to transmittal; or (iv) in the case of facsimile transmission, upon confirmation that receipt of such transmission was received, provided receipt of such transmission is confirmed prior to 5:00 P.M. Pacific time on the business day on which such confirmation is received, otherwise on the next business day, in each case addressed to the parties as follows:

Mortgagor: c/o Acumen, LLC
540 N. LaSalle Street
Chicago, Illinois 60654
Attention: Debra J. Tucker

Mortgagee: Thorofare Asset Based Lending Fund II, L.P.
601 South Figueroa Street, Suite 2050
Los Angeles, CA 90017
Attention: Mr. Kevin Miller

and with a copy concurrently to:

Steckbauer Weinhart, LLP
333 South Hope Street, Suite 3600
Los Angeles, California 90071
Attention: Brian S. Weinhart

Any party shall have the right to change its address for notice hereunder to any other location within the United States by the giving of thirty (30) days notice to the other party in the manner set forth hereinabove.

Mortgagor requests a copy of any statutory notice of default and a copy of any statutory notice of sale be mailed to Mortgagor at the address set forth above.

9.9 **REINSTATEMENT OF LIEN.** Mortgagee's rights hereunder shall be reinstated and revived, and the enforceability of this Mortgage shall continue, with respect to any amount at any time paid on account of any Secured Obligation which Mortgagee is thereafter required to restore or return in connection with a bankruptcy, insolvency, reorganization or similar proceeding with respect to any Mortgagor.

9.10 **SUBORDINATION.** Until all of the Secured Obligations have been fully paid and performed: (a) Mortgagor hereby agrees that all existing and future indebtedness and other obligations of each Mortgagor to each other Mortgagor (collectively, the "**Subordinated Debt**")

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shall be and are hereby subordinated to all Secured Obligations which constitute obligations of the applicable Mortgagor, and the payment thereof is hereby deferred in right of payment to the prior payment and performance of all such Secured Obligations; (b) Mortgagor shall not collect or receive any cash or non-cash payments on any Subordinated Debt or transfer all or any portion of the Subordinated Debt; and (c) in the event that, notwithstanding the foregoing, any payment by, or distribution of assets of, any Mortgagor with respect to any Subordinated Debt is received by Mortgagor, such payment or distribution shall be held in trust and immediately paid over to Mortgagee, is hereby assigned to Mortgagee as security for the Secured Obligations, and shall be held by Mortgagee in an interest bearing account until all Secured Obligations have been fully paid and performed.

9.11 **LAWFULNESS AND REASONABLENESS.** Mortgagor warrants that all of the waivers in this Mortgage are made with full knowledge of their significance, and of the fact that events giving rise to any defense or other benefit waived by Mortgagor may destroy or impair rights which Mortgagor would otherwise have against Mortgagee, Borrower and other persons, or against collateral. Mortgagor agrees that all such waivers are reasonable under the circumstances and further agrees that, if any such waiver is determined (by a court of competent jurisdiction) to be contrary to any law or public policy, the other waivers herein shall nonetheless remain in full force and effect.

9.12 **ENFORCEABILITY.** Mortgagor hereby acknowledges that: (a) the obligations undertaken by Mortgagor in this Mortgage are complex in nature, and (b) numerous possible defenses to the enforceability of these obligations may presently exist and/or may arise hereafter, and (c) as part of Mortgagee's consideration for entering into this transaction, Mortgagee has specifically bargained for the waiver and relinquishment by Mortgagor of all such defenses, and (d) Mortgagor has had the opportunity to seek and receive legal advice from skilled legal counsel in the area of financial transactions of the type contemplated herein. Given all of the above, Mortgagor does hereby represent and confirm to Mortgagee that Mortgagor is fully informed regarding, and that Mortgagor does thoroughly understand: (i) the nature of all such possible defenses, and (ii) the circumstances under which such defenses may arise, and (iii) the benefits which such defenses might confer upon Mortgagor, and (iv) the legal consequences to Mortgagor of waiving such defenses. Mortgagor acknowledges that Mortgagor makes this Mortgage with the intent that this Mortgage and all of the informed waivers herein shall each and all be fully enforceable by Mortgagee, and that Mortgagee is induced to enter into this transaction in material reliance upon the presumed full enforceability thereof.

9.13 **DISCLOSURE OF INFORMATION; PARTICIPATIONS.** Mortgagor understands and agrees that Mortgagee may elect, at any time, to sell, assign, or participate all or any part of Mortgagee's interest in the Loan, and that any such sale, assignment or participation may be to one or more financial institutions, private investors, and/or other entities, at Mortgagee's sole discretion. Mortgagor further agrees that Mortgagee may disseminate to any such potential purchaser(s), assignee(s) or participant(s) all documents and information (including, without limitation, all financial information) which has been or is hereafter provided to or known to Mortgagee with respect to: (a) the Property and Collateral and its operation; (b) any party connected with the Loan (including, without limitation, Mortgagor, Borrower, any partner of Borrower and any guarantor); and/or (c) any lending relationship other than the Loan which Mortgagee may have with any party connected with the Loan.

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9.14 **WAIVER OF RIGHT TO TRIAL BY JURY.** EACH PARTY TO THIS MORTGAGE, AND BY ITS ACCEPTANCE HEREOF, MORTGAGEE, HEREBY EXPRESSLY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (a) ARISING UNDER THE LOAN DOCUMENTS, INCLUDING, WITHOUT LIMITATION, ANY PRESENT OR FUTURE MODIFICATION THEREOF OR (b) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO OR ANY OF THEM WITH RESPECT TO THE LOAN DOCUMENTS (AS NOW OR HEREAFTER MODIFIED) OR ANY OTHER INSTRUMENT, DOCUMENT OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith, OR THE TRANSACTIONS RELATED HERETO OR THERETO, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE; AND EACH PARTY AND MORTGAGEE HEREBY AGREES AND CONSENTS THAT ANY PARTY TO THIS MORTGAGE AND MORTGAGEE MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO AND MORTGAGEE TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

9.15 **INTEGRATION; INTERPRETATION.** This Mortgage and the other Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. This Mortgage and the other Loan Documents shall not be modified except by written instrument executed by all parties. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Mortgagee in writing.

9.16 **ADVERTISING.** In connection with the Loan, Mortgagor hereby agrees that Mortgagee may publicly identify details of the Loan in Mortgagee's advertising and public communications of all kinds, including, but not limited to, press releases, direct mail, newspapers, magazines, journals, e-mail, or internet advertising or communications. Such details may include the name of the Property, the address of the Property, the amount of the Loan, the date of the closing and a description of the size/location of the Property.

9.17 **WAIVER OF MARSHALING RIGHTS.** Mortgagor, for itself and for all parties claiming through or under Mortgagor, and for all parties who may acquire a lien on or interest in the Property, hereby waives all rights to have the Property and/or any other property marshaled upon any foreclosure of the lien of this Mortgage or on a foreclosure of any other lien securing the Secured Obligations. Mortgagee shall have the right to sell the Property and any or all of said other property as a whole or in separate parcels, in any order that Mortgagee may designate.

9.18 **SUBORDINATION OF PROPERTY MANAGER'S LIEN.** Any property management agreement for the Property entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Property shall be subject and subordinate to the lien of this Mortgage and shall provide that Mortgagee may terminate such agreement at any time after the occurrence of an

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Event of Default hereunder. Such property management agreement or a short form thereof, at Mortgagee's request, shall be recorded with the County Recorder of the county where the Property is located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a subordination of the management agreement with Mortgagee, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Mortgage. No assignment of or material amendment, modification, or supplement to, any property management agreement shall be valid or enforceable without the prior consent of the Mortgagee.

9.19 SPECIAL PURPOSE ENTITY. Each entity comprising Mortgagor shall be and remain a special purpose bankruptcy remote entity and shall at all times comply with the following covenants.

(a) The purpose for which Mortgagor is organized shall be limited to (i) owning, holding, selling, leasing, transferring, exchanging, operating and managing Mortgagor's interest in the Property, (ii) entering into the Loan, (iii) refinancing the Property in connection with a permitted repayment of the Loan, and (iv) transacting any and all lawful business that is incident, necessary and appropriate to accomplish the foregoing.

(b) Mortgagor does not own and will not own any asset or property other than (i) the Property and (ii) incidental personal property necessary for and used in connection with the ownership or operation of the same.

(c) Mortgagor shall not engage in a business other than the ownership, operation and management of the Property and any other property which is hereafter acquired by Mortgagor with Mortgagee's prior written consent.

(d) Mortgagor will not enter into any contract or agreement with any affiliate, Guarantor or any affiliate of Guarantor

(e) Mortgagor has not incurred and will not incur any indebtedness, secured or unsecured, other than (i) the Loan and incidental costs and expenses associated therewith, (ii) indebtedness incurred in the ordinary course of business to vendors and suppliers of services to the Property (not more than thirty (30) days past due), and (iii) non-delinquent property taxes and assessments;

(f) Mortgagor has not made and will not make any loans or advances to any person or entity and shall not acquire obligations or securities of an affiliate.

(g) Mortgagor is and will remain solvent and Mortgagor will pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due, provided that this covenant shall not imply any capital contribution obligation.

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(h) Mortgagor has done or caused to be done and will do all things necessary to observe organizational formalities and preserve its existence, and Mortgagor will not amend, modify or otherwise change the partnership certificate, partnership agreement, articles of incorporation and bylaws, operating agreement, trust or other organizational documents of Mortgagor without the written consent of Mortgagee.

(i) Mortgagor shall maintain all of its books, records, financial statements and bank accounts separate from those of its affiliates. Mortgagor's assets will not be listed as assets on the financial statement of any other person. Mortgagor shall have its own separate financial statement. Mortgagor will file its own tax returns and will not file a consolidated federal income tax return with any other corporation. Mortgagor shall maintain its books, records, resolutions and agreements as official records.

(j) Mortgagor will be, and at all times will hold itself out to the public as, a legal entity separate and distinct from any other person or entity, shall correct any known misunderstanding regarding its status as a separate entity, shall conduct business in its own name and shall not identify itself or any of its affiliates as a division or part of the other.

(k) Mortgagor will maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations.

(l) Neither Mortgagor nor any constituent party will seek the dissolution, winding up, liquidation, consolidation or merger, in whole or in part, or the sale of material assets of Mortgagor.

(m) Mortgagor will not commingle the funds and other assets of Mortgagor with those of any other person, and will not participate in a cash management system with any such person.

(n) Mortgagor will not commingle its assets with those of any other person and will hold all of its assets in its own name.

(o) Mortgagor will not guarantee or become obligated for the debts of any other person and does not and will not hold itself out as being responsible for the debts or obligations of any other person.

(p) Mortgagor shall not pledge its assets for the benefit of any other person, other than with respect to the Loan.

(q) Without the unanimous consent of each of Mortgagor's members, partners or other equity interest holders, Mortgagor shall not file a petition for relief under the Bankruptcy Code, or under any other present or future state of federal law regarding bankruptcy, reorganization or other debtor relief law.

9.20 INTENTIONALLY OMITTED.

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9.21 **SEVERABILITY**. If any paragraph, clause or provision of this Mortgage is construed or interpreted by a court of competent jurisdiction to be void, invalid or unenforceable, such voidness, invalidity or unenforceability will not affect the remaining paragraphs, clauses and provisions of this Mortgage, which shall nevertheless be binding upon the parties hereto with the same effect as though the void or unenforceable part had been severed and deleted.

[signature on following page]

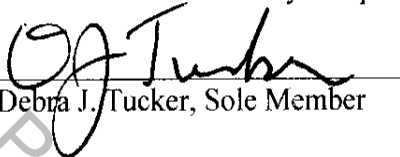
Property of Cook County Clerk's Office

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

MORTGAGOR:

Acumen, LLC,
an Illinois Series limited liability company

By: 
Debra J. Tucker, Sole Member

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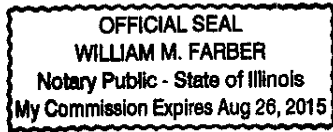
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, WILLIAM FARBER, a Notary Public in and for said County in the State aforesaid, **DO HEREBY CERTIFY THAT** Debra J. Tucker is the sole Member of ACUMEN LLC is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that she signed and delivered the said instrument as his own free and voluntary act.

GIVEN under my hand and notarial seal this 30th day of August, 2013

Notary Public

My commission expires: _____



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EXHIBIT A

DESCRIPTION OF PROPERTY

LOT 76 IN IRA SCOTT'S SUBDIVISION OF THE WEST 1/2 OF THE WEST 1/2 OF BLOCK 1 ON SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 29, 31, 32 AND 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

PIN: 14-33-313-005-0000