

**Illinois Anti-Predatory
Lending Database
Program**

Certificate of Exemption

**Report Mortgage Fraud
800-532-8785**

The property identified as: PIN: 06-13-409-013-0000

Address:

Street: 215 David Drive

Street line 2:

City: Streamwood

State: IL

ZIP Code: 60107

Lender: German American Capital Corporation

Borrower: Elm Street Homes, LLC

Loan / Mortgage Amount: \$200,000,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 7770 et seq. because the application was taken by an exempt entity.

Certificate number: CC23502D-C908-4875-91DD-BCFDDEE965446

Execution date: 08/15/2013

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PREPARED BY:

Courtney Rangen, Esq.
Sidley Austin LLP
555 West 5th Street, Suite 4000
Los Angeles, CA 90013

AFTER RECORDING RETURN TO:

ServiceLink
400 Corporation Dr
Aliquippa, PA 15001
SL # 3186220

ELM STREET HOMES, LLC
(Mortgagor)

to

GERMAN AMERICAN CAPITAL CORPORATION,

as collateral agent for the Lenders
(Mortgagee)

**MORTGAGE, ASSIGNMENT OF
LEASES AND RENTS
AND FIXTURE FILING**

Dated: As of AUGUST 16th, 2013

Location: 215 DAVID DR, STREAMWOOD, IL 60107

County: COOK

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MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "*Mortgage*") is made as of this 16th day of AUGUST, 2013, by ELM STREET HOMES, LLC, a Delaware limited liability company, as mortgagor, having its principal place of business at 13405 Inglewood Avenue, 2nd Floor, Hawthorne, California 90250 ("*Mortgagor*") to GERMAN AMERICAN CAPITAL CORPORATION, a Maryland corporation, solely in its capacity as collateral agent for the Lenders (as defined in the Loan Agreement (as hereinafter defined)), as mortgagee, having an address at 60 Wall Street, 10th Floor, New York, New York 10005 (together with its successors and/or assigns, "*Mortgagee*").

WITNESSETH:

A. This Mortgage is given to secure a loan (the "*Loan*") in the maximum principal sum of TWO HUNDRED MILLION AND NO/100 DOLLARS (\$200,000,000.00) or so much thereof as may be advanced and outstanding pursuant to that certain Loan Agreement (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "*Loan Agreement*") dated as of June 7, 2013 by and among Deutsche Bank AG, New York Branch, as administrative agent, Mortgagee, Mortgagor, the Other Borrowers party thereto (the "*Other Borrowers*"), Lenders and certain other parties thereto, which Loan may be evidenced by one or more promissory notes made and given by Mortgagor and the Other Borrowers (together with all extensions, renewals, replacements (whether by one or more replacement notes), restatements or modifications of any or all of such notes, being hereinafter referred to collectively as the "*Note*"). Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. To induce the Lenders to make the Loan, Mortgagor desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums (including any Release Amounts) due from Mortgagor and the other Borrowers to Lenders pursuant to the Loan Documents (the "*Debt*") and the performance of all of Mortgagor's and the Other Borrowers' obligations under the Note, the Loan Agreement and the other Loan Documents.

C. This Mortgage is given pursuant to the Loan Agreement, and payment, fulfillment and performance by Mortgagor and the Other Borrowers of their respective obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement (including, without limitation, the provisions of Section 10.08 thereof), the Note, and that certain Assignment of Leases and Rents of even date herewith made by Mortgagor in favor of Mortgagee delivered in connection with this Mortgage (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "*Assignment of Leases*"), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage.

NOW THEREFORE, in consideration of the making of the Loan by Lenders and the covenants, agreements, representations and warranties set forth in this Mortgage:

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NOW THEREFORE, in consideration of the making of the Loan by Lenders and the covenants, agreements, representations and warranties set forth in this Assignment:

ARTICLE 1 ASSIGNMENT

Section 1.1 Property Assigned. Borrower hereby absolutely and unconditionally assigns and grants to Secured Party the following property, rights, interests and estates, now owned or hereafter acquired by Borrower:

(a) **Leases.** All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Property (other than any Management Agreement), and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**"), together with any extension, renewal or replacement of same. This Assignment of existing and future Leases and other agreements is effective without any further or supplemental assignment documents.

(b) **Rents.** All Rents, which term shall include Rents paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code.

(c) **Bankruptcy Claims.** All of Borrower's claims and rights (the "**Bankruptcy Claims**") to the payment of damages arising from any rejection by a lessee of any Lease under the Bankruptcy Code.

(d) **Lease Guaranties.** All of Borrower's right, title and interest in, and claims under, any and all lease guaranties, letters of credit and any other credit support (individually, a "**Lease Guaranty**", and collectively, the "**Lease Guaranties**") given by any guarantor in connection with any of the Leases or leasing commissions (individually, a "**Lease Guarantor**", and collectively, the "**Lease Guarantors**") to Borrower.

(e) **Proceeds.** All proceeds from the sale or other disposition of the Leases, the Rents, the Lease Guaranties and/or the Bankruptcy Claims.

(f) **Other.** All rights, powers, privileges, options and other benefits of Borrower as the lessor under any of the Leases and the beneficiary under any of the Lease Guaranties, including, without limitation, the immediate and continuing right to make claims for, and to receive, collect and acknowledge receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Debt or the Other Obligations), and to do all other things which Borrower or any lessor is or may become entitled to do under any of the Leases or Lease Guaranties.

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(g) **Entry.** The right, subject to the provisions of the Loan Agreement and the rights of any Tenants, at Secured Party's option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents.

(h) **Power of Attorney.** Upon the occurrence and during the continuance of an Event of Default, Borrower's irrevocable power of attorney, coupled with an interest, to take any and all of the actions set forth in Section 3.1 of this Assignment, and any or all other actions designated by Secured Party for the proper management and preservation of the Property.

(i) **Other Rights And Agreements.** Any and all other rights of Borrower in and to the items set forth in subsections (a) through (h) above, and all amendments, modifications, replacements, renewals and substitutions thereof.

ARTICLE 2 **TERMS OF ASSIGNMENT**

Section 2.1 Present Assignment and License Back. It is intended by Borrower that this Assignment constitute a present, absolute assignment of the Leases, Rents, Lease Guaranties and Bankruptcy Claims, and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 2.1 and the terms of the Loan Agreement and the Property Account Cash Management Agreement, Secured Party grants to Borrower a revocable license to collect, receive, use and enjoy the Rents, as well as any sums due under the Lease Guaranties.

Section 2.2 Notice to Lessees. Borrower hereby authorizes and directs the lessees named in the Leases, any other future lessees or occupants of the Property and all Lease Guarantors to pay over to Secured Party or to such other party as Secured Party directs all Rents and all sums due under any Lease Guaranties, upon such lessee's receipt from Secured Party of written notice to the effect that Secured Party is then the holder of this Assignment. Such Rents shall be disbursed and/or applied in accordance with the terms of the Loan Agreement and the Property Account Cash Management Agreement. Nothing contained in this Section shall limit Borrower's rights or obligations under the Loan Agreement or Property Account Cash Management Agreement.

Section 2.3 Incorporation by Reference. All representations, warranties, covenants, conditions and agreements contained in the Loan Agreement and the other Loan Documents, as the same may be modified, renewed, substituted or extended from time to time, are hereby made a part of this Assignment to the same extent and with the same force as if fully set forth herein.

ARTICLE 3 **REMEDIES**

Section 3.1 Remedies of Secured Party. Upon and during the continuance of an Event of Default, the license granted to Borrower in Section 2.1 of this Assignment shall automatically be revoked and Secured Party shall immediately be entitled to possession of all Rents and all sums due under any Lease Guaranties, whether or not Secured Party enters upon or takes control of the Property. In addition, Secured Party may, at its option, without waiving any Event of Default, without regard to the adequacy of the security for the Obligations, either in person or by agent, nominee or attorney, with or without bringing any action or proceeding, or

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by a receiver appointed by a court but subject to the rights of any Tenants, dispossess Borrower and its agents and servants from the Property, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of the Property and all books, records and accounts relating thereto, and have, hold, manage, lease and operate the Property on such terms and for such period of time as Secured Party may deem proper and, either with or without taking possession of the Property, in its own name, demand, sue for or otherwise collect and receive all Rents and all sums due under all Lease Guaranties, including, without limitation, those past due and unpaid (with all such Rents and all sums due under any Lease Guaranties to be deposited into the applicable Property Account to the extent and as required by the terms of the Loan Agreement and the Property Account Control Agreement), with full power to make from time to time all alterations, renovations, repairs or replacements hereto or thereof as Secured Party may deem proper. In addition, upon the occurrence and during the continuance of an Event of Default, Secured Party, at its option, may, subject to and in accordance with the terms of the Loan Agreement and the other Loan Documents but subject to the rights of any Tenants, (1) complete any construction on the Property in such manner and form as Secured Party deems advisable, (2) exercise all rights and powers of Borrower, including without limitation, the right to negotiate, execute, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents from the Property and all sums due under any Lease Guaranties (with all such Rents and all sums due under any Lease Guaranties to be deposited into a Property Account to the extent and as required by the terms of the Loan Agreement and the Property Account Control Agreement), and/or (3) either (i) require Borrower to pay monthly in advance to Secured Party or to any receiver appointed to collect the Rents the fair and reasonable rental value for the use and occupancy of such part of the Property as may be in the possession of Borrower, or (ii) require Borrower to vacate and surrender possession of the Property to Secured Party or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise.

Section 3.2 Other Remedies. Nothing contained in this Assignment and no act done or omitted by Secured Party pursuant to the power and rights granted to Secured Party hereunder shall be deemed to be a waiver by Secured Party or Lenders of each of their rights and remedies under the Loan Agreement, the Note, the Security Instrument or the other Loan Documents, and this Assignment is made and accepted without prejudice to any of the rights and remedies possessed by Secured Party and/or Lenders under the terms thereof. The right of Secured Party to collect the Obligations and to enforce any other security therefor held by it may be exercised by Secured Party either prior to, simultaneously with, or subsequent to any action taken by it hereunder. Borrower hereby absolutely, unconditionally and irrevocably waives any and all rights to assert any setoff, counterclaim or crossclaim of any nature whatsoever with respect to the Obligations of Borrower under this Assignment, the Loan Agreement, the Note, the other Loan Documents or otherwise with respect to the Loan in any action or proceeding brought by Secured Party to collect same, or any portion thereof, or to enforce and realize upon the lien and security interest created by this Assignment, the Loan Agreement, the Note, the Security Instrument or any of the other Loan Documents (provided, however, that the foregoing shall not be deemed a waiver of Borrower's right to assert any compulsory counterclaim if such counterclaim is compelled under local law or rule of procedure, nor shall the foregoing be deemed a waiver of Borrower's right to assert any claim which would constitute a defense, setoff, counterclaim or crossclaim of any nature whatsoever against Secured Party in any separate action or proceeding).

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Section 3.3 Other Security. Secured Party may (i) take or release other security for the payment and performance of the Obligations, (ii) release any party primarily or secondarily liable therefor, and/or (iii) apply any other security held by it to the payment and performance of the Obligations, in each instance, without prejudice to any of its rights under this Assignment.

Section 3.4 Non-Waiver. The exercise by Secured Party of the option granted it in Section 3.1 of this Assignment and the collection of the Rents and the sums due under the Lease Guaranties and the application thereof as provided in the Loan Documents shall not be considered a waiver of any Default or Event of Default by Borrower or any of the Other Borrowers under the Note, the Loan Agreement, the Security Instrument, this Assignment or the other Loan Documents. The failure of Secured Party to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Assignment. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (a) the failure of Secured Party to comply with any request of Borrower or any other party to take any action to enforce any of the provisions hereof or of the Loan Agreement, the Note or the other Loan Documents, (b) the release, regardless of consideration, of the whole or any part of the Property, or (c) any agreement or stipulation by Secured Party or Lenders extending the time of payment or otherwise modifying or supplementing the terms of this Assignment, the Loan Agreement, the Note or the other Loan Documents (except to the extent of any modification of this Agreement in accordance with the provisions thereof). Secured Party may resort for the payment and performance of the Obligations to any other security held by Secured Party in such order and manner as Secured Party, in its sole discretion, may elect. Secured Party may take any action to recover the Obligations, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Secured Party thereafter to enforce its rights under this Assignment. The rights of Secured Party under this Assignment shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Secured Party shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

Section 3.5 Bankruptcy.

(a) Upon and during the continuance of an Event of Default, Secured Party shall have the right to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code, and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section 365(a) of the Bankruptcy Code, then Borrower shall give Secured Party not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject such Lease. Secured Party shall have the right, but not the obligation, to serve upon Borrower within such ten (10) day period a notice stating that (i) Secured Party demands that Borrower assume and assign the Lease to Secured Party pursuant to Section 365 of the Bankruptcy Code, and (ii) Secured Party covenants to cure or provide adequate assurance of future performance under the Lease. If Secured Party serves upon

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Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after Secured Party's notice shall have been given, subject to the performance by Secured Party of the covenant provided for in clause (ii) of the preceding sentence.

ARTICLE 4 NO LIABILITY, FURTHER ASSURANCES

Section 4.1 No Liability of Secured Party. This Assignment shall not be construed to bind Secured Party to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Secured Party not expressly set forth herein. Secured Party shall not be liable for any loss sustained by Borrower resulting from Secured Party's failure to let the Property after an Event of Default or from any other act or omission of Secured Party in managing the Property after an Event of Default unless such loss is caused by the gross negligence, knowing violation of law, fraud or willful misconduct of Secured Party. Secured Party shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Assignment and Borrower shall indemnify Secured Party and Lenders for, and hold Secured Party and Lenders harmless from, (a) any and all liability, loss or damage which may or might be incurred under the Leases, any Lease Guaranties or under or by reason of this Assignment, and (b) any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Secured Party and/or Lenders by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties, unless caused by the gross negligence, knowing violation of law, fraud or willful misconduct of any Lender or Secured Party. Should Secured Party or any Lender incur any such liability for which it is entitled to indemnification hereunder, the amount thereof, including costs, expenses and reasonable attorneys' fees and costs, shall be secured by this Assignment and by the Security Instrument and the other Loan Documents and Borrower and the Other Borrowers shall reimburse Secured Party therefor immediately upon demand. This Assignment shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Secured Party or Lenders, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Secured Party or Lenders responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property, including, without limitation, the presence of any Hazardous Substances (as defined in the Environmental Indemnity), 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 or stranger. Notwithstanding anything to the contrary set forth in this Section 4.1, in the event of any foreclosure (whether judicially or non-judicially by private sale or trustee's sale) of the Security Instrument (any such foreclosure, or foreclosure sale, a "*Mortgage Foreclosure Divestment*"), with the result that no Borrower nor any Borrower Affiliate, nor any Sponsor or Parent, nor Equity Owner, shall hold any direct or indirect interest in, or the power to direct the management of, the Property thereby foreclosed (such Property, a "*Divested Property*"), then, in such case, Borrower's indemnification obligation set forth in this Section 4.1 shall not apply to any liability, loss, damage, claim, or demand arising solely from any circumstance, condition, action or event with respect to such

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Divested Property: (A) first occurring after the Mortgage Foreclosure Divestment, and (B) not caused by any Borrower, any Borrower Affiliate, any Sponsor, any Parent or any Equity Owner; provided that Borrower shall remain liable hereunder for any liability, loss, damage, claim, or demand arising from any circumstance, condition, action or event occurring with respect to such Divested Property prior to the Mortgage Foreclosure Divestment, even to the extent the applicable liability, loss, damage, claim, or demand does not occur, or the occurrence of the applicable circumstance, condition, action or event is not discovered, until after the Mortgage Foreclosure Divestment.

Section 4.2 No Mortgagee In Possession. Nothing herein contained shall be construed as constituting Secured Party a “mortgagee in possession” in the absence of the taking of actual possession of the Property by Secured Party. In the exercise of the powers herein granted Secured Party, no liability shall be asserted or enforced against Secured Party, all such liability being expressly waived and released by Borrower.

Section 4.3 Further Assurances. Borrower will, at the cost of Borrower, and without expense to Secured Party, do, execute, acknowledge and deliver all and every such further acts, conveyances, assignments, notices of assignments, transfers and assurances as Secured Party shall, from time to time, require for the better assuring, conveying, assigning, transferring and confirming unto Secured Party the property and rights hereby assigned or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Secured Party, or for carrying out the intention or facilitating the performance of the terms of this Assignment or for filing, registering or recording this Assignment and, on demand, will execute and deliver, and hereby authorizes Secured Party to execute in the name of Borrower to the extent Secured Party may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence more effectively the lien and security interest hereof in and upon the Leases.

ARTICLE 5 MISCELLANEOUS PROVISIONS

Section 5.1 Conflict of Terms. In case of any conflict between the terms of this Assignment and the terms of the Loan Agreement, the terms of the Loan Agreement shall prevail.

Section 5.2 No Oral Change. This Assignment and any provisions hereof may not be modified, amended, waived, extended, changed, discharged or terminated orally, or by any act or failure to act on the part of Borrower or Secured Party, but only by an agreement in writing signed by the party(ies) against whom the enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 5.3 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Assignment may be used interchangeably in the singular or plural form and the word “*Borrower*” shall mean “each Borrower and any subsequent owner or owners of the Property or any part thereof or interest therein,” the word “Secured Party” shall mean “Secured Party and any subsequent secured party with respect to the Loan,” the word “*Note*” shall mean “the Note and any other evidence of

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indebtedness secured by the Loan Agreement,” the word “*Property*” shall include any portion of the Property and any interest therein, and the phrases “attorneys’ fees”, “legal fees” and “counsel fees” shall include any and all reasonable attorneys’, paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels, incurred or paid by Secured Party in protecting its interest in the Property, the Leases, the Rents, the sums due under the Lease Guaranties and/or in enforcing its rights hereunder. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

Section 5.4 Inapplicable Provisions. If any provision of this Assignment is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Assignment, such provision shall be fully severable and this Assignment shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Assignment, and the remaining provisions of this Assignment shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Assignment, unless such continued effectiveness of this Assignment, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

Section 5.5 Governing Law; Jurisdiction; Service of Process.

(a) WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS ASSIGNMENT, THIS ASSIGNMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES SHALL GOVERN ALL MATTERS RELATING TO THIS ASSIGNMENT AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

(b) Borrower irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever, whether in law or equity, or whether in contract or tort or otherwise, against any other party or any other Person relating to this Assignment or any other Loan Document or the transactions contemplated hereby or thereby, in any forum other than the courts of the State of New York sitting in Borough of Manhattan and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, and Borrower irrevocably and unconditionally submits to the exclusive jurisdiction, and Secured Party (on behalf of itself and the Lenders) submits to the non-exclusive jurisdiction, of such courts and agrees that any such action, litigation or proceeding may be brought in any such New York State court or, to the fullest extent permitted by

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applicable law, in such federal court. Each of the parties (on behalf of itself and, in the case of Secured Party, the Lenders) hereto agrees that a final judgment in any such action, litigation or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing herein or in any other Loan Document shall affect any right Secured Party may otherwise have to bring any action or proceeding relating to the Property in the courts of any jurisdiction where the Property is located.

(c) Each party hereto (on behalf of itself and, in the case of Secured Party, the Lenders) irrevocably and unconditionally waives, to the fullest extent permitted by applicable law, any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court referred to in Section 5.5(b). Each of the parties hereto (on behalf of itself and, in the case of Secured Party, the Lenders) hereby irrevocably waives, to the fullest extent permitted by applicable law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

Section 5.6 Termination of Assignment. Upon the termination or reconveyance of the Security Instrument, this Assignment shall become and be void and of no effect.

Section 5.7 Notices. All notices or other written communications hereunder shall be delivered in accordance with Section 10.02 of the Loan Agreement.

Section 5.8 WAIVER OF TRIAL BY JURY. TO THE FULLEST EXTENT NOW OR HEREAFTER PERMITTED BY APPLICABLE LAW, EACH OF BORROWER AND SECURED PARTY (ON BEHALF OF ITSELF AND THE LENDERS) HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THIS ASSIGNMENT, THE NOTE, THE SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH OF BORROWER AND SECURED PARTY AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. EACH OF BORROWER AND SECURED PARTY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER AND SECURED PARTY.

Section 5.9 Exculpation. The provisions of Section 10.08 of the Loan Agreement are hereby incorporated by reference into this Assignment to the same extent and with the same force as if fully set forth herein.

Section 5.10 Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of Borrower and Secured Party (as collateral agent for the Lenders) and their respective successors and permitted assigns forever. Secured Party shall have the right to assign or transfer its rights under this Assignment in connection with any assignment of the Loan and the Loan Documents in accordance with the Loan Agreement. Any assignee or transferee of

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Secured Party shall be entitled to all the benefits afforded to Secured Party under this Assignment. Borrower shall not have the right to assign or transfer its rights or obligations under this Assignment without the prior written consent of Secured Party, as provided in the Loan Agreement, and any attempted assignment without such consent shall be null and void.

Section 5.11 Headings, Etc. The headings and captions of the various paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 5.12 Recitals. The recitals hereof are a part hereof, form a basis for this Assignment and shall be considered *prima facie* evidence of the facts and documents referred to therein.

[NO FURTHER TEXT ON THIS PAGE]

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IN WITNESS WHEREOF, Borrower has executed this Assignment as of the day and year first above written.

BORROWER:

ELM STREET HOMES, LLC

BY: 

Coburn Packard, Authorized Person

Property of Cook County Clerk's Office

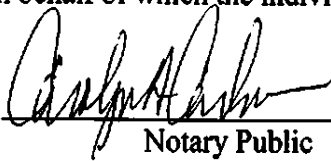
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ACKNOWLEDGMENT

STATE OF NEW YORK, COUNTY OF NEW YORK

ss:

On the 23rd day of May, in the year 2013, before me, the undersigned, a notary public in and for said State, personally appeared COBURN PACKARD, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s) or the person upon behalf of which the individual(s) acted, executed the instrument.


Notary Public

CAROLINE BARISEN
Notary Public, State of New York
No. 01CA6019371
Qualified in Suffolk County
Commission Expires February 8, 20 15

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EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

All that certain parcel of land situate in the County of Cook, State of Illinois, being known and designated as follows: LOT 555 IN GLENBROOK UNIT NUMBER 7, BEING A SUBDIVISION OF PART OF THE SOUTH ½ OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 9, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 16, 1971 AS DOCUMENT 21451164, IN COOK COUNTY, ILLINOIS.

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