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1400749037

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Doc#: 1400749037 **Fee:** \$104.00
RHSP Fee:\$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/07/2014 03:49 PM Pg: 1 of 34



Doc#: **Fee:** \$2.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 01/07/2014 03:49 PM Pg: 0

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 17-05-225-015-0000

Address:

Street: 1234 N. HALSTED AND

Street line 2: 2059 PULASKI

City: CHICAGO

State: IL

ZIP Code: 60622

Lender: ALLIANT CREDIT UNION

Borrower: 1234 N. HALSTED, LLC AND 2059 PULASKI, LLC

Loan / Mortgage Amount: \$6,800,000.00

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

Certificate number: DF39E3D6-8B49-428A-8A03-05E5D00AEE01

Execution date: 12/31/2013

FREEDOM TILE CORP.

07/14/52 1/4 pm

Property of Cook County Clerk's Office

34+

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This instrument was prepared by
and upon recordation should be
returned to:

Leah A. Schleicher, Esq.
Neal, Gerber & Eisenberg LLP
2 North LaSalle Street, Suite 1700
Chicago, IL 60602

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (this “Mortgage”) is made and executed the 21 day of December, 2013, by 1234 N. Halsted, LLC, an Illinois limited liability company and 2059 Pulaski, LLC, an Illinois limited liability company, jointly and severally (collectively, “Mortgagor”), whose mailing address is 1234 N. Halsted Street, Chicago, IL 60622, to, in favor of and for the benefit of **ALLIANT CREDIT UNION**, an Illinois state chartered credit union, and its successor; and assigns (“Mortgagee”), whose mailing address is P.O. Box 66945, 11545 West Touhy Avenue, Chicago, Illinois 60666, and pertains to the real estate (the “Real Estate”) described on Exhibit A attached hereto and made a part hereof.

ARTICLE ONE RECITALS

1.1 Note.

Mortgagor has executed and delivered to Mortgagee a Promissory Note (the “Note”) of even date herewith. In the Note, Mortgagor promises to pay to the order of Mortgagee the principal sum of Six Million Eight Hundred Thousand Dollars (\$6,800,000) (the “Loan”). This Mortgage secures the Loan. From the date hereof, the Loan shall be repaid with interest thereon, in monthly installments as set forth in the Note, and the entire unpaid principal balance and all accrued interest thereon shall be due and payable on January 1, 2024 (the “Maturity Date”). The terms and provisions of the Note are by this reference incorporated herein and made a part hereof.

1.2 Indebtedness.

As used herein, the term “Indebtedness” means (a) the indebtedness evidenced by the Note, including principal, interest and prepayment premium, if any; and (b) all other sums which may at any time be due, owing or required to be paid under the Note, this Mortgage and the other Loan Documents (as defined in Section 1.3) including, without limitation, sums owing from or required to be paid by Mortgagor as a result of the breach or non-performance of any of the Obligations (as defined in Section 1.3), subject to any applicable notice and grace periods.

1.3 Loan Documents.

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In addition to this Mortgage and the Note, there have been executed and delivered to and in favor of Mortgagee certain other loan documents (the Note, this Mortgage and all other documents and instruments, whether now or hereafter existing, which secure or guarantee payment of the Note or are otherwise executed in connection with the Loan, as the same may hereafter be amended, modified, supplemented or replaced from time to time, are collectively referred to herein as the "Loan Documents." The Loan Documents may include, without limitation, a guaranty (whether one or more, the "Guaranty") executed by Zafar Hussain (whether one or more, the "Guarantor") of even date herewith.

ARTICLE TWO THE GRANT

In order to secure (i) the payment of the Indebtedness; and (ii) the performance of any of the terms, provisions, covenants, agreements, representations, warranties, certifications and obligations contained herein or under the other Loan Documents (collectively, the "Obligations"), and in consideration of the sum of Ten and No/100 Dollars (\$10.00) in hand paid by Mortgagee to Mortgagor, the Recitals hereinabove stated in Article One and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby grants, bargains, sells, assigns, warrants, releases, aliens, transfers, conveys and mortgages to Mortgagee and its successors and assigns a present and continuing lien upon and security interest in and to all of the Mortgagor's rights, interests, title and claims in and to the following property (collectively, the "Secured Property"):

(a) all the Real Estate described in Exhibit A attached hereto and by this reference incorporated herein and made a part hereof;

(b) all buildings, structures and other improvements now or hereafter constructed, erected, installed, placed or situated upon the Real Estate (collectively, the "Improvements");

(c) all estate, claim, demand, right, title and interest of Mortgagor now owned or hereafter acquired, including, without limitation, any after-acquired title, franchise, license, remainder or reversion, in and to (i) any land or vaults lying within the right-of-way of any street, avenue, way, passage, highway or alley, open or proposed, vacated or otherwise, adjoining the Real Estate; (ii) any and all alleys, sidewalks, streets, avenues, strips and gores of land adjacent, belonging or appertaining to the Real Estate and Improvements; (iii) all rights of ingress and egress to and from the Real Estate and all adjoining property; (iv) storm and sanitary sewer, water, gas, electric, railway, telephone and all other utility services relating to the Real Estate and Improvements; (v) all land use, zoning, developmental rights and approvals, air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Real Estate or any part thereof; and (vi) each and all of the tenements, hereditaments, easements, appurtenances, other rights, liberties, reservations, allowances and privileges relating to the Real Estate or the Improvements or in any way now or hereafter appertaining thereto, including homestead and any other claim at law or in equity (collectively, the "Appurtenances");

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(d) all leasehold estates and the right, title and interest of Mortgagor in, to and under any and all leases, subleases, management agreements, arrangements, concessions or agreements, written or oral, relating to the use and occupancy of the Real Estate and Improvements or any portion thereof, now or hereafter existing or entered into, including any Major Leases and Minor Leases, each as defined in Section 3.18 (individually, a "Lease" and collectively, the "Leases");

(e) all rents, issues, profits, proceeds, income, revenues, royalties, advantages, avails, claims against guarantors, security and other deposits (whether in the form of cash, letters of credit or other forms), advance rentals and any and all other payments or benefits now or hereafter derived, directly or indirectly, from the Real Estate and Improvements, whether under the Leases or otherwise (collectively, the "Rents"); subject however, to the right, power and authority (the "License") granted Mortgagor in the Assignment of Rents and Leases executed by Mortgagor to and in favor of Mortgagee of even date herewith to collect and apply the Rents as provided therein;

(f) all right, title and interest of Mortgagor in and to any and all contracts, written or oral, express or implied, now existing or hereafter entered into or arising, in any manner related to the improvement, use, operation, sale, conversion or other disposition of any interest in the Secured Property, including, without limitation, all options to purchase or lease the Real Estate or Improvements or any portion thereof or interest therein, or any other rights, interests or greater estates in the rights and properties comprising the Secured Property, now owned or hereafter acquired by Mortgagor (collectively, the "Contract Rights");

(g) all general intangibles of Mortgagor, including, without limitation, goodwill, trademarks, trade names, option rights, permits, licenses, insurance policies and proceeds therefrom, rights of action and books and records relating to the Real Estate or Improvements (collectively, the "Intangible Personal Property");

(h) all right, title and interest of Mortgagor in and to all fixtures, equipment and tangible personal property of every kind, nature or description attached or affixed to or situated upon or within the Real Estate or Improvements, or both, provided the same are used, usable or intended to be used for or in connection with any present or future use, occupation, operation, maintenance, management or enjoyment of the Real Estate or Improvements (collectively, the "Tangible Personal Property");

(i) all proceeds of the conversion, voluntary or involuntary, of any of the Secured Property into cash or other liquidated claims or that are otherwise payable for injury to, or the taking or requisitioning of the Secured Property, including all insurance and condemnation proceeds as provided in this Mortgage (collectively, the "Proceeds");

(j) all Tax and Insurance Deposits (as defined in Section 3.3);

(k) all of Mortgagor's right, power or privilege to further hypothecate or encumber all or any portion of the property, rights and interests described in this Article Two as security for any debt or obligation, it being intended by this provision to divest

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Mortgagor of the right, power and privilege to hypothecate or encumber, or to grant a mortgage upon or security interest in any of the property hypothecated in or encumbered by this Mortgage, as security for the payment of any debt or performance of any obligation without Mortgagee's prior written consent (collectively, the "Right to Encumber"); and

(l) all other property, rights, interests, estates or claims of every name, kind, character or nature, both in law and in equity, which Mortgagor now has or may hereafter acquire in the Real Estate and Improvements and all other property, rights, interests, estates or claims of any name, kind, character or nature or properties now owned or hereafter acquired in the other properties, rights and interests comprising the Secured Property (collectively, the "Other Rights and Interests").

Mortgagor agrees that without the necessity of any further act of Mortgagor or Mortgagee, the lien of and the security interest created in and by this Mortgage shall automatically extend to and include any and all renewals, replacements, substitutions, accessions, products or additions to and proceeds of the Secured Property.

TO HAVE AND TO HOLD the Secured Property unto Mortgagee, its successors and assigns, forever, free from all rights and benefits under and by virtue of any homestead exemption laws or similar laws of the state or other jurisdiction in which the Secured Property is located (the "State") (which rights and benefits are hereby expressly released and waived) for the uses and purposes herein set forth.

MORTGAGOR hereby covenants with and warrants to Mortgagee and with the purchaser at any foreclosure sale that at the execution and delivery hereof, Mortgagor owns the Secured Property and has a good and indefeasible estate therein in fee simple; that the Secured Property is free from all encumbrances whatsoever (and any claim of any other Person (as defined below) thereto) other than those encumbrances expressly permitted by Mortgagee in writing (or as set forth in a commitment for title insurance marked up by Mortgagee or its attorney in anticipation of the recording of this Mortgage) (collectively, the "Permitted Exceptions"); that, subject to the Permitted Exceptions, Mortgagor has good and lawful right to sell, convey, mortgage and encumber the Secured Property; and that Mortgagor and its successors and assigns shall forever warrant and defend the title to the Secured Property against all claims and demands whatsoever. As used herein, "Person" means any natural person, corporation, limited liability company, partnership, firm, association, government, governmental agency or any other entity, whether acting in an individual, fiduciary or other capacity.

PROVIDED, HOWEVER, that if and when Mortgagor has paid all of the Indebtedness and has performed and observed all of the agreements, terms, conditions, provisions and warranties contained in this Mortgage and in all of the other Loan Documents, the estate, right, title and interest of Mortgagee in and to the Secured Property shall cease and shall be released at the cost of Mortgagor, but otherwise shall remain in full force and effect.

ARTICLE THREE GENERAL AGREEMENTS

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To protect the security of this Mortgage, Mortgagor further covenants and agrees as follows:

3.1 Recitals.

The recitals set forth above are true and correct and are material provisions of this Mortgage.

3.2 Payment of Indebtedness.

Mortgagor shall pay promptly the Indebtedness at the times and in the manner provided in the Loan Documents. All such sums payable by Mortgagor shall be paid without demand, counterclaim, offset, deduction or defense. To the extent permitted by law, Mortgagor hereby waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

3.3 Other Payments.

(a) In addition to the monthly installment payments required by the Note, Mortgagor shall pay to Mortgagee (or its designee) the following sums on a monthly basis until the Indebtedness is fully paid (collectively, the "Tax and Insurance Deposits"):

(i) a sum equal to one-twelfth (1/12th) of the annual Taxes (as defined in Section 3.5) next due on the Secured Property, all as estimated by Mortgagee (the "Tax Deposits"); and

(ii) a sum equal to one-twelfth (1/12th) of the annual premium or premiums next payable for the insurance herein required to be maintained on or with respect to the Secured Property as estimated by Mortgagee (the "Insurance Deposits"); provided, however that Insurance Deposits shall not be required unless and until an Event of Default has occurred and Mortgagee delivers written notice to Mortgagor specifying that Insurance Deposits will be required, after which notice, Mortgagee shall make such deposits monthly as provided herein.

(b) Should the total Tax and Insurance Deposits on hand not be sufficient to pay all of the Taxes and insurance premiums, together with all penalties and interest thereon, when the same become due and payable, Mortgagor shall pay to Mortgagee promptly on demand any amount necessary to make up the deficiency. If at the time of payment of Taxes or insurance premiums the total of such Tax and Insurance Deposits exceeds the amount required to pay the Taxes and insurance premiums, such excess shall be credited on subsequent payments to be made for such items.

(c) All such Tax and Insurance Deposits:

(i) shall be held by Mortgagee or a depository designated by Mortgagee with no obligation to segregate such payments and without any obligation arising for the payment of any interest thereon;

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(ii) shall be applied by Mortgagee for the purposes for which made (as herein provided) subject, however, to the security interest granted Mortgagee therein pursuant to Article Two; and

(iii) shall not be subject to the direction or control of Mortgagor.

(d) Provided that no Event of Default (as defined in Section 4.1) exists and there are sufficient funds in the Tax and Insurance Deposits, Mortgagee agrees to make the payment of the Taxes or insurance premiums with reasonable promptness following its receipt of appropriate tax and/or insurance bills therefor, or, alternatively, upon presentation by Mortgagor of receipted (i.e. paid) tax and/or insurance bills therefor, Mortgagee shall reimburse Mortgagor for such Taxes and insurance premium payments made by Mortgagor.

(e) Upon the occurrence of an Event of Default, Mortgagee may, at its option, without being required to do so, apply any Tax and Insurance Deposits on hand to the payment of any of the Indebtedness, in such order and manner as Mortgagee may elect. When the Indebtedness has been fully paid, any remaining Tax and Insurance Deposits shall be paid to Mortgagor.

(f) In addition to the monthly installment payments required by the Note, Mortgagor shall pay to Mortgagee (or its designee) (a) an initial deposit from proceeds of the Loan in an amount equal to \$10,000 to be utilized for obtaining a No Further Remediation Letter from the Illinois Environmental Protection Agency (the "NFR Letter") for the 1234 North Halsted, Chicago, Illinois property and (b) on a monthly basis until the Indebtedness is fully paid (the "Replacement Reserve Deposits") the amount of \$500.00 for replacements as are necessary in the reasonable opinion of Mortgagee to keep the Secured Property in condition and repair consistent with other similar properties in the same market segment in the metropolitan area in which the Secured Property is located, and to keep the Secured Property or any portion thereof from deteriorating in any material respect. Funds in the Replacement Reserve Deposits shall be released by Mortgagee upon satisfaction of Mortgagee's reasonable requirements for release, including, without limitation, a written request for release from Mortgagor received by Mortgagee no later than 30 days prior to the release date, Mortgagee's approval of the replacements to be performed, Mortgagee's approval of any plans and specifications related to such replacements and lien releases and title endorsements as required by Mortgagee.

3.4 Maintenance, Repair, Restoration, Prior Liens, Parking.

Mortgagor shall and hereby agrees to:

(a) promptly repair, restore, replace or rebuild any portion of the Improvements which may become damaged or destroyed, with all replacements being at least equal in quality and condition as existed prior thereto, free from any security interest therein, encumbrances thereon or reservation of title thereto;

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- (b) keep the Improvements in good condition and repair, without waste and free from mechanics', materialmen's or similar or other liens or claims of lien;
- (c) complete, within a reasonable time, any Improvements now or hereafter in the process of construction upon the Real Estate;
- (d) comply with all statutes, rules, regulations, orders, decrees and other requirements of any governmental body, whether federal, state or local, having jurisdiction over the Secured Property and the use thereof and observe and comply with any conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Secured Property or its use and occupancy;
- (e) except as required by any Lease, make no alterations in or to the Improvements, except with the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned, and in conformity with all applicable laws;
- (f) not suffer nor permit any change in the general nature of the occupancy of the Improvements without the prior written consent of Mortgagee;
- (g) pay when due all operating costs of the Improvements;
- (h) not initiate nor acquiesce in any zoning reclassification with respect to the Secured Property without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned;
- (i) provide, improve, grade, surface and thereafter maintain, clean, repair and adequately light all parking areas upon the Real Estate, such parking areas being of sufficient size to accommodate the greater of the amount of standard-size vehicles required (i) by law, ordinance or regulation; or (ii) by the terms of any Leases, together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and rights-of-way to and from the adjacent thoroughfares necessary or desirable for the use thereof;
- (j) forever warrant and defend its title to the Secured Property and the validity, enforceability and priority of the lien and security interests granted in and by this Mortgage and the other Loan Documents against the claims and demands of all Persons; and
- (k) immediately notify Mortgagee of any suit, proceeding, litigation, arbitration or administrative or other governmental proceeding relating to Mortgagor or the Secured Property or of any Event of Default hereunder.

3.5 Property Taxes and Contest of Liens.

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Notwithstanding the Tax and Insurance Deposits required by Section 3.3, Mortgagor shall be responsible for the payment, when first due and owing and before delinquency and before any penalty attaches, of all real estate and personal property taxes and assessments (general or special), water charges, sewer charges and any other charges, fees, taxes, claims, levies, charges, expenses, liens and assessments, ordinary or extraordinary, governmental or nongovernmental, statutory or otherwise, that may be levied, assessed or asserted against the Secured Property or any part thereof or interest therein (collectively, "Taxes"). Notwithstanding anything contained herein to the contrary, Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any Taxes as well as any mechanics', materialmen's or other liens or claims of lien upon the Secured Property (collectively, the "Contested Liens"), provided that

(a) such contest shall have the effect of preventing the collection of the Contested Liens and the sale or forfeiture of the Secured Property or any part thereof or interest therein to satisfy the same;

(b) Mortgagor shall first notify Mortgagee in writing of the intention of Mortgagor to contest the same before any Contested Liens have been increased by any interest, penalties or costs and

(c) Mortgagor deposits with Mortgagee a sum sufficient to pay such Contested Lien if and when payment becomes due.

3.6 Tax and Lien Payments by Mortgagee.

(a) Upon the failure of Mortgagor to pay the Tax Deposits as required in Section 3.3 or, in the event said payments are waived by Mortgagee, to pay the Taxes required to be paid in Section 3.5 above (unless Mortgagor is contesting the Taxes as provided in Section 3.5 above), Mortgagee is authorized, in its sole discretion, to make any payment of Taxes in accordance with any tax bill or statement from the appropriate public office without inquiry into the accuracy or validity of any Taxes, sales, forfeiture of title or claim relating thereto.

(b) Mortgagee is also authorized, in the place and stead of Mortgagor, to make any payment relating to any apparent or threatened adverse title, lien, claim of lien, encumbrance, claim, charge or payment otherwise relating to any other purpose but not enumerated in this Section, whenever, in Mortgagee's reasonable judgment and discretion, such payment seems necessary to protect the full security intended to be created by this Mortgage.

(c) All such payments authorized by this Section 3.6 that are not promptly reimbursed by Mortgagor shall constitute additional Indebtedness and shall be immediately due and payable by Mortgagor to Mortgagee upon demand with interest at the Default Rate (as defined in the Note) from the date of such payment.

3.7 Insurance.

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(a) Mortgagor shall insure and keep insured the Secured Property and each and every part thereof against such perils and hazards as Mortgagee may from time to time require, and in any event including:

(i) Property insurance insuring against all risks of loss to the Secured Property customarily covered by "Causes of Loss—Special Form" policies (also known as "all risk" insurance) in an amount at least equal to the full replacement cost of all Improvements, without deduction for physical depreciation and with (A) a standard mortgagee's endorsement clause; (B) a maximum deductible of \$10,000.00; and (C) either an agreed amount endorsement (to avoid the operation of any coinsurance provisions) or a waiver of any coinsurance provisions;

(ii) Commercial general liability insurance on an occurrence basis to afford protection for bodily injury, death and property damage in an amount of not less than the greater of (A) One Million Dollars (\$1,000,000); or (B) the highest amount of coverage required to be carried by the landlord under the terms of the Major Leases. The policy shall name Mortgagee as an additional insured;

(iii) Steam boiler, machinery and pressurized vessel insurance (if applicable to the Improvements);

(iv) If the Secured Property is occupied by a tenant or tenants, rent loss insurance in an amount sufficient to cover loss of rents from the Secured Property for a minimum of twelve (12) months or, in the alternative, if the Secured Property is occupied by Mortgagor, business interruption insurance in an amount sufficient to cover loss of gross earnings from the Secured Property for a minimum of twelve (12) months;

(v) If any building or other structure on the Secured Property is situated in an area now or hereafter designated by the Federal Emergency Management Agency as a "Special Flood Hazard Area" (Zone A or Zone V), evidence of flood insurance in an amount equal to the least of (A) the minimum amount required under the terms of the coverage to compensate for any damage or loss on a full replacement cost basis; (B) the unpaid principal balance of the Indebtedness; or (C) the maximum limit of coverage available for the Secured Property under the National Flood Insurance Program; provided, however, that, in the event the unpaid principal balance of the Indebtedness is less than 80% of the replacement cost under subsection (A), the flood insurance coverage shall be in an amount equal to the lesser of the amounts set forth in subsections (A) or (C). The policy shall name Mortgagee as the first mortgagee under a standard mortgagee's endorsement clause;

(vi) Either affirmative coverage for acts of terrorism in its property and liability insurance or evidence that coverage for acts of terrorism is not excluded from its property and liability insurance;

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(vii) Either affirmative coverage for windstorm and named storms in its property insurance or evidence that coverage for windstorm and named storms is not excluded from its property insurance; and

(viii) Such other insurance coverages on the Secured Property as reasonably required by Mortgagee.

(b) Insurance policies required by this Section 3.7 shall:

(i) be in amounts and form and issued by companies reasonably satisfactory to Mortgagee and shall comply with all provisions of this Mortgage;

(ii) contain endorsements naming Mortgagee as first mortgagee under a standard mortgagee clause under the required property, steam boiler and rent loss insurance policies and as an additional insured for the commercial general liability insurance policy;

(iii) if available, contain endorsements providing for not less than thirty (30) days written notice to Mortgagee prior to any cancellation, non-renewal or termination;

(iv) permit Mortgagee to pay any premium within fifteen (15) days after its receipt of notice stating that such premium has not been paid when due;

(v) require that settlement of any claim under any of the referenced policies shall require Mortgagee's prior written approval, which approval shall not be unreasonably withheld, delayed or conditioned; and

(vi) contain exclusions to coverage reasonably acceptable to Mortgagee.

(c) The policy or policies of such insurance or certificates of insurance evidencing the required coverage shall be delivered to Mortgagee.

(d) Mortgagor shall not purchase separate insurance policies concurrent in form or contributing in the event of loss with those policies required to be maintained under this Section 3.7.

3.8 Insurance Premium Payment by Mortgagee, Use of Proceeds.

(a) In the event Mortgagor fails to make the Insurance Deposits as required by Section 3.3, or if such Insurance Deposits have been waived, upon Mortgagee's receipt of written notice (i) of an unpaid insurance premium; (ii) of a termination or cancellation of any required insurance policy; or (iii) that a required insurance policy is not to be renewed and Mortgagor fails to provide replacement coverage at least fifteen (15) days prior to the termination of existing coverage, Mortgagee may, at its option, procure and substitute another policy of insurance in the amount required pursuant to the foregoing terms of this Mortgage with such companies as Mortgagee may select, the cost of which

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shall be paid by Mortgagor upon demand should the amount available from the Insurance Deposits be insufficient to pay the premium therefor. All sums paid by Mortgagee in procuring said insurance that are not promptly reimbursed by Mortgagor shall be additional Indebtedness and shall be immediately due and payable without notice, with interest thereon at the Default Rate from the date of such payment.

(b) In the event of any damage to or destruction of the Improvements or any part thereof, Mortgagor shall promptly notify Mortgagee and take such action necessary to preserve the undamaged portion of the Improvements. If at the time of such damage and destruction,

(i) no Event of Default is in existence and no event shall have occurred as of such date which, with the passage of time, the giving of notice or both, would constitute an Event of Default;

(ii) the damage is such that the cost to repair the same, in Lender's reasonable discretion, is \$50,000.00 or less;

(iii) the damage is such that it can be reasonably repaired within the time provided in the Leases so as to preclude a material reduction in the rental income from the Secured Property (after application of any rental insurance proceeds), or Mortgagor obtains written commitments in form and substance reasonably satisfactory to Mortgagee from tenants to lease space, upon completion of repairs, in the Secured Property at aggregate rentals equal to or exceeding the debt service of the Loan and the general operating expenses of the Secured Property;

(iv) the Proceeds are less than the outstanding Indebtedness under the Loan;

(v) the casualty insurer has not denied liability for payment of Proceeds as a result of any act, neglect, use or occupancy of the Secured Property by Mortgagor or any tenant of the Secured Property;

(vi) the Real Estate and/or Improvements can be restored to the condition at least equal to the condition in which they existed at the closing of the Loan (with any post-closing improvements included in such Restoration (as defined in this Section 3.8)); and

(vii) if required by Mortgagee, a satisfactory report addressed to Mortgagee from an environmental engineer or other qualified professional satisfactory to Mortgagee certifies that no adverse environmental impact to the Secured Property has resulted from the casualty;

then, any Proceeds paid to Mortgagee in connection with such damage or destruction, after deducting therefrom any expenses, including without limitation reasonable attorneys' fees, incurred by Mortgagee in protecting the undamaged portion of the Improvements and in the collection of the Proceeds (the "Collection Expenses"), shall be applied by Mortgagee to the cost

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of restoring, repairing, replacing or rebuilding (herein generally called "Restoration") the Real Estate and/or Improvements or any part thereof as set forth in Section 3.10.

Otherwise, in Mortgagee's sole discretion, all Proceeds, less Collection Expenses, shall be applied: (A) to the installments of the Indebtedness in the inverse order of their maturity; or (B) to the cost of Restoration as set forth in Section 3.10.

3.9 Condemnation.

(a) Mortgagor shall give Mortgagee prompt notice of any proceedings, instituted or threatened, seeking condemnation or taking by eminent domain or any like process (a "Taking") of all or any part of the Real Estate or Improvements including any easement thereon or appurtenance thereto (including severance of, consequential damage to or change in grade of streets) and shall deliver to Mortgagee copies of any and all papers served in connection with any such proceeding.

(b) Until the Indebtedness is paid in full, Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire Proceeds of any and all awards resulting from any Taking. Mortgagor is hereby authorized to collect and receive from the condemnation authorities the entire Proceeds and is further authorized to give appropriate receipts and acquittances therefor.

(c) In the event of any such Taking, any and all such Proceeds shall be applied, after deducting therefrom any Collection Expenses, in Mortgagee's reasonable discretion but subject to the further terms of this Section 3.9, to: (i) the installments of the Indebtedness in the inverse order of their maturity; or (ii) the cost of Restoration pursuant to Section 3.10.

(d) If (i) the Proceeds of any one Taking do not exceed \$50,000.00; (ii) no Event of Default is in existence on the date of such Taking and no event shall have occurred as of such date which, with the passage of time, the giving of notice or both, would constitute an Event of Default; and (iii) in Mortgagee's reasonable judgment, the remainder of the Secured Property can be operated (A) as an economically viable project at substantially the same level of operations which existed immediately prior to the Taking; and (B) at the functional equivalent of its condition (considering, without limitation, the effect of the Taking on the remaining leasable area, parking and access) prior to the Taking, then, such Proceeds, after deducting therefrom the Collection Expenses, shall be applied to the cost of Restoration pursuant to Section 3.10.

(e) Notwithstanding anything contained herein to the contrary, in the event that the Taking is, in Mortgagee's reasonable determination, of such a nature that the Real Estate and the Improvements will not require Restoration, all Proceeds, after deducting therefrom the Collection Expenses, shall be applied in Mortgagee's sole discretion to installments of Indebtedness in the inverse order of their maturity.

3.10 Restoration Using Proceeds.

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(a) In the event Mortgagee elects (or is required hereby) to make any Proceeds available for Restoration, Mortgagor shall complete, in form and with supporting documentation reasonably required by Mortgagee, an estimate of the cost to repair or to restore the Real Estate and Improvements to the condition at least equal to the condition in which they existed prior to such damage, destruction or Taking, free from any security interest in, lien or encumbrance on, or reservation of title to, such Real Estate and Improvements.

(b) The Proceeds and, if applicable, other amounts payable by Mortgagor to Mortgagee necessary to complete Restoration shall be held by Mortgagee or if Mortgagee so desires, a disbursing agent selected by Mortgagee. The costs and expenses of administering disbursements shall be paid by Mortgagor. In the event the amount of the Proceeds are insufficient to cover the cost of Restoration, Mortgagor shall pay to Mortgagee upon demand the cost of Restoration in excess of the Proceeds, such excess to be held by Mortgagee with the Proceeds.

(c) Subject to Mortgagee's right to limit the number of disbursements, the Proceeds shall be disbursed from time to time upon Mortgagee's receipt of architect's certificates, waivers of lien, contractor's sworn statements and such other evidence as Mortgagee or any disbursing agent may reasonably require to verify the cost and fact of the completion of the work included in said disbursement. Under no circumstances shall any portion of the Proceeds be released until Mortgagee has been reasonably assured that the Proceeds remaining after the requested disbursement will be sufficient to complete Restoration. No payment of Proceeds made prior to the final completion of Restoration shall exceed ninety percent (90%) of the value of the work performed from time to time. Any Proceeds remaining after Restoration shall be applied against the installments of Indebtedness in the inverse order of their maturity.

3.11 Restrictions on Transfer.

(a) Without the prior written consent of Mortgagee:

(i) Mortgagor shall not create, effect, contract for, commit or consent to, nor shall Mortgagor suffer or permit, any sale, conveyance, transfer, assignment, collateral assignment, lien, pledge, mortgage, security interest or other hypothecation, encumbrance or alienation (or any agreement to do any of the foregoing) (the foregoing being herein collectively, called a "Transfer") of the Secured Property, or any direct or indirect interest in Mortgagor or the Property or title thereto (excepting, however, the sale or other disposition of Collateral (as defined in Section 6.1) no longer useful in connection with the operation of the Secured Property ("Obsolete Collateral")); provided, however, that prior to the sale or other disposition of Obsolete Collateral, such Obsolete Collateral shall have been replaced by Collateral of at least equal value and utility which is subject to the first and prior lien of this Mortgage, and further provided, Mortgagor shall be permitted to enter into a Minor Lease or amend a Minor Lease without the prior consent of Mortgagee;

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(ii) Mortgagor shall not fail to pay when the same shall become due all lawful claims and demands of mechanics, materialmen, laborers and others which, if unpaid, might result in or permit the creation of a lien on the Real Estate or Improvements or on the Rents arising therefrom except as permitted under Section 3.5;

(b) The foregoing provisions of this Section 3.11 shall not apply (i) to liens securing the Indebtedness; or (ii) to the lien of current Taxes not in default. Any waiver by Mortgagee of the provisions of this Section 3.11 must be in writing and shall not be deemed to be a waiver of the right of Mortgagee in the future to insist upon strict compliance with the provisions of this Section 3.11.

(c) Upon the Transfer, without the prior written consent of Mortgagee, of (i) all or any part of the Secured Property; or (ii) any direct or indirect interest in Mortgagor Mortgagee may, at its option, declare all of the sums secured by this Mortgage to be immediately due and payable.

(d) Notwithstanding anything contained herein to the contrary, prior written consent shall not be required for any Transfer of an interest in Mortgagor by any partner, member shareholder or beneficiary, as applicable, of Mortgagor where such Transfer: (i) results from death; (ii) is a Transfer made among the present partners, members, shareholders or beneficiaries of Mortgagor, as applicable; or (iii) which is made to immediate family members (spouses and children) or family trusts solely for the benefit of such family members for estate planning purposes. Any such Transfer shall be subject to the following conditions:

(i) Except for death, thirty (30) days prior written notice of such proposed Transfer shall be delivered to Mortgagee, together with (A) a description of the proposed sale or Transfer, including a description of the nature and amount(s) of beneficial ownership interests proposed to be sold or transferred and a description of who owns the remainder not being transferred; (B) documentation related to the proposed transferee as required by Mortgagee in its sole and absolute discretion including, without limitation, organizational documents, certificates of existence and final ownership allocations, (C) copies of the Transfer documents pursuant to which the proposed Transfer is to be effected; and (D) any additional information reasonably requested by Mortgagee regarding the proposed Transfer and/or transferee;

(ii) Any such proposed sale or Transfer shall not be permitted to any Person who or which on the date of the proposed Transfer is in a bankruptcy, insolvency, reorganization or any other similar court or administrative proceeding;

(iii) No Event of Default shall be in existence under any of the Loan Documents on the date of such proposed sale or Transfer and no event shall have occurred or be in existence as of such date which, with the passage of time, the

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giving of notice or both, would constitute an Event of Default under any of the Loan Documents;

(iv) Any such sale or Transfer, if and when consummated, shall not release any Person from any liability or obligation to which it is otherwise liable or obligated, if any, under the terms of the Loan Documents;

(v) Mortgagor shall pay all of Mortgagee's reasonable expenses relating to the review and/or preparation of any documentation related to the proposed Transfer, including, without limitation, the fees and expenses of Mortgagee's outside counsel; and

(vi) After any such Transfer, Zafar Hussain must continue to maintain at least a fifty one percent (51%) ownership and a controlling interest in each Mortgagor (or such lesser interest as owned by Zafar Hussain on the date hereof).

(e) As used in Section 3.11(d) above and if Mortgagor is comprised of more than one entity, a "Transfer of an interest in Mortgagor" shall also include a Transfer of undivided interests in the Secured Property to other entities directly or indirectly comprising Mortgagor, subject to the same qualifications and limitations, and satisfaction of the same requirements, set forth in Section 3.11(d) with respect to Transfers of beneficial interests in entities.

3.12 Mortgagee's Dealings with Transferee.

In the event Mortgagee gives its written consent to a sale or Transfer of all or any part of the Secured Property or any direct or indirect interest in Mortgagor or the Property, whether by operation of law, voluntarily or otherwise, Mortgagee shall be authorized and empowered to deal with the Person to whom the Secured Property or any part thereof shall have been transferred with regard to the Secured Property, the Indebtedness and any of the terms or conditions of this Mortgage as fully and to the same extent as it might with the original Mortgagor, without in any way releasing or discharging the original Mortgagor from any of its covenants under this Mortgage and without waiving Mortgagee's right of acceleration of the maturity of the Indebtedness as provided in this Mortgage or the Note.

3.13 Change in Tax Laws.

In the event of any change in, or change in the interpretation of, any applicable law regarding (a) the taxation of mortgages, deeds of trust or other security instruments or the debts secured thereby; or (b) the manner in which such taxes are collected, which change adversely affects Mortgagee, this Mortgage or any other Loan Document or the Indebtedness, Mortgagor shall promptly pay any such tax and otherwise compensate Mortgagee to the extent of such detriment; provided, however, that if Mortgagor fails to make such payment or if any such law prohibits Mortgagor from making such payment or would penalize Mortgagee in the event of such payment, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Indebtedness secured hereby to be and become due and payable, without any prepayment premium or fee, within sixty (60) days from the giving of such notice.

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3.14 Inspection of Secured Property.

Subject to the rights of tenants under the Leases, Mortgagor hereby grants to Mortgagee, its agents, employees, consultants and contractors the right to enter upon the Secured Property upon reasonable prior notice (except in the case of emergencies) for the purpose of making any and all inspections, reports, tests, inquiries and reviews as Mortgagee (in its sole and absolute discretion) deems necessary to assess the then current condition of the Secured Property or for the purpose of performing any other acts which Mortgagee is authorized to perform under this Mortgage or under the Environmental Indemnification Agreement executed by Mortgagor and Guarantor (if applicable) in connection with the Loan (the "Environmental Indemnification Agreement"). Mortgagor will cooperate with Mortgagee to facilitate each such entry and the accomplishment of such purposes.

3.15 Operating and Financial Statements.

Within one hundred twenty (120) days after the close of each fiscal year of Mortgagor, Mortgagor shall deliver, or cause to be delivered, to Mortgagee: (a) annual operating statements showing all elements of income and expense of the Secured Property and annual account statements for the Mortgagor's operating accounts; (b) a current rent roll, showing all items set forth in the rent roll delivered to Mortgagee in connection with the closing of the Loan, as well as gross sales of each tenant, if any, paying percentage rental; and (c) financial statements (consisting of a balance sheet and an income and expense statement) for Mortgagor and, subject to the Leases, any tenant under a Lease approved by Mortgagee that provides that such tenant may self-insure on any insurance otherwise required to be obtained by Mortgagor under this Mortgage. Mortgagor shall promptly deliver to Mortgagee such other information (financial or otherwise) concerning the condition of the Secured Property, Mortgagor and Guarantor that Mortgagee may reasonably request. Within one hundred twenty (120) days of calendar year end, Mortgagor shall deliver annual personal financial statements and income tax returns of Guarantor. All such statements and information shall be maintained and prepared in accordance with proper accounting principles, shall otherwise be reasonably satisfactory to Mortgagee and shall be certified by an authorized Person, partner or officer of Mortgagor approved by Mortgagee, which approval shall not be unreasonably withheld, delayed or conditioned. Mortgagee and its representatives shall have the right, at all reasonable times and upon reasonable notice, to examine and make copies of Mortgagor's and Guarantor's plans, books, records, income tax returns and all supporting data concerning Mortgagor or the Secured Property. Mortgagor will assist Mortgagee and its representatives in conducting any such examination.

3.16 Declaration of Subordination.

At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any Award) to any and all Leases of all or any part of the Secured Property upon the execution by Mortgagee and recording thereof, at any time hereafter and in the appropriate official records of the county wherein the Real Estate is situated, of a unilateral declaration to that effect.

3.17 Usury.

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Mortgagee intends that Mortgagor shall not be required to pay, and Mortgagee shall not be entitled to receive or collect, interest in excess of the maximum legal rate permitted under applicable usury laws. In the event Mortgagee or any court determines that any charge, fee or interest paid or agreed to be paid in connection with the Loan may, under applicable usury laws, cause the interest rate on the Loan to exceed the maximum rate permitted by law, such charges, fees or interest shall be reduced to the maximum rate permitted by law and any amounts actually paid in excess of such maximum rate permitted by law shall, at Mortgagee's option, be applied by Mortgagee to reduce the outstanding principal balance of the Loan or repaid by Mortgagee directly to Mortgagor.

3.18 Lease Obligations.

(a) As further security for the payment of the Indebtedness, Mortgagor has, pursuant to this Mortgage and by separate Assignment of Rents and Leases of even date herewith, sold, transferred and assigned to Mortgagee, its successors and assigns, all of Mortgagor's right, title and interest, as landlord, in, to and under the Leases.

(b) The following definitions shall be applicable to all Leases of the Secured Property now or hereafter existing:

(i) "Major Leases": Leases with annual gross rental income equal to or in excess of fifteen percent (15%) of the total annual gross rental income of the Real Estate and Improvements (as applied separately to each property described on Exhibit A) or have a lease term equal to or in excess of five (5) years, together with all extensions, renewals, amendments, modifications, replacements and substitutions therefor; provided, however, a replacement or substitution for a Major Lease shall in turn be deemed a "Major Lease" only if such replacement or substitution has annual gross rental income equal to or in excess of fifteen percent (15%) of the total annual gross rental income of the Real Estate and Improvements (as applied separately to each property described on Exhibit A) or has a lease term equal to or in excess of five (5) years.

(ii) "Minor Leases": Leases that are not Major Leases; provided, however, if any Minor Lease, after modification, meets the definition of a Major Lease, such Minor Lease shall thereupon become a Major Lease.

(c) Mortgagee shall have the right to impose a reasonable Servicing Fee (as defined in Section 7.15) in connection with the review of any documentation submitted for Mortgagee's approval hereunder. Mortgagor shall also be responsible for the payment of all reasonable fees and expenses of Mortgagee's outside counsel in the event Mortgagee, in its sole but reasonable discretion, shall determine that the assistance of outside counsel is necessary or appropriate.

(d) Mortgagor covenants and agrees to keep, observe and perform and to require all tenants of the Secured Property to keep, observe and perform all the covenants, agreements and provisions of any present or future Leases of the Secured Property on their respective parts to be kept, observed and performed. If Mortgagor shall

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neglect or refuse to so perform or fail to require such tenants to so perform, Mortgagee may, at its option, itself perform and comply or require performance or compliance by such tenants with any such Lease covenants, agreements and provisions. Any sums expended by Mortgagee in performance of or compliance with such Leases or in enforcing performance of or compliance with such Leases by the tenants, including reasonable costs and expenses and attorneys' fees, shall be paid to Mortgagee by Mortgagor upon demand with interest thereon at the Default Rate from the date of such payments and, in the absence of such payment, all such sums shall be deemed to be and become part of the Indebtedness secured by this Mortgage.

(e) Mortgagor expressly covenants and agrees that if Mortgagor, as landlord under the Major Leases:

(i) fails to perform and fulfill any material term, covenant, condition or provision in any Major Lease on its part to be performed or fulfilled, at the times and in the manner provided in such Major Lease;

(ii) does or permits to be done anything to impair the value of any Major Lease as security for the Indebtedness, including, without limitation, voluntary surrender or termination;

(iii) fails to enforce all of the material terms, covenants and conditions required to be performed by a tenant under any Major Lease;

(iv) fails to pursue its remedies under any Major Lease (short of voluntary surrender or termination) following a breach or default by the tenant thereunder; or

(v) without Mortgagee's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned, permits or approves an assignment by any tenant under any Major Lease or a subletting of all or any part of the Secured Property demised in any Major Lease (other than in accordance with the terms of the applicable Major Lease);

then, upon the occurrence of any such actions or inactions referenced in (i) through (v) above and if Mortgagor fails to remedy such actions or inactions within thirty (30) days of such occurrence, at the option of Mortgagee, and with written notice to Mortgagor, an Event of Default shall be deemed to have occurred hereunder and at the option of Mortgagee, all unpaid Indebtedness secured by this Mortgage shall, notwithstanding anything in the Note, this Mortgage or the other Loan Documents to the contrary, become due and payable as in the case of other Events of Default.

3.19 Environmental Compliance.

Mortgagor hereby agrees to comply and cause all tenants of the Secured Property to comply with any and all federal, state or local laws, rules and regulations relating to environmental protection including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund

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Amendments and Reauthorization Act of 1986 and such other legislation, rules and regulations as are in or may hereafter come into effect and apply to Mortgagor, Mortgagee, the Loan or the Secured Property or any occupants thereof, whether as lessees, tenants, licensees or otherwise. Mortgagor shall defend, indemnify and save and hold Mortgagee harmless from and against any and all claims, costs or expenses relating to such environmental protection provisions notwithstanding any exculpatory or limitation of liability provisions contained in this Mortgage and the other Loan Documents.

3.20 Further Assurances.

(a) Mortgagor shall do all acts necessary to keep valid and effective the liens and security interests created by this Mortgage and the security intended to be afforded by the Loan Documents and to carry into effect their objectives.

(b) Without limiting the generality of the foregoing, Mortgagor shall promptly and, insofar as not contrary to applicable law, at Mortgagor's expense, execute, record, rerecord, file and refile in such offices, at such times and as often as may be necessary, this Mortgage, additional mortgages, security agreements and every other instrument in addition to or supplemental hereto, including applicable financing statements, continuation statements, affidavits or certificates as may be reasonably necessary to create, perfect, maintain, continue, extend and/or preserve the liens, encumbrances and security interests intended to be granted and created in and by the Loan Documents and the rights and remedies of Mortgagee and Mortgagor thereunder. Upon request of Mortgagee, Mortgagor shall promptly supply evidence of fulfillment of the foregoing acts and further assurances.

3.21 Change of Name, Identity or Structure.

Except as may be expressly set forth in this Mortgage, without giving Mortgagee at least thirty (30) days prior written notice, Mortgagor shall not change: (a) its jurisdiction of organization; (b) the location of its place of business (or chief executive office if more than one place of business); or (c) its name or identity (including its trade name or names). In addition, if Mortgagor is an entity, Mortgagor shall not change its structure or legal status without first obtaining the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, delayed or conditioned.

3.22 Management of Secured Property.

The Secured Property shall be managed in a first-class manner by either: (a) Mortgagor or an entity affiliated with Mortgagor and approved by Mortgagee; or (b) a professional property management company approved by Mortgagee, which approval shall not be unreasonably withheld, delayed or conditioned. The management of the Secured Property by a Mortgagor-affiliated entity or a professional property management company (in either case, a "Manager") shall be pursuant to a written agreement approved by Mortgagee (the "Management Agreement"), which approval shall not be unreasonably withheld, delayed or conditioned. In no event shall any Manager be removed or replaced or the terms of any Management Agreement modified or amended without the prior written consent of Mortgagee, which consent shall not be

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unreasonably withheld, delayed or conditioned. Following an Event of Default, Mortgagee shall have the right to terminate the Management Agreement or to direct Mortgagor to retain a new Manager approved by Mortgagee.

3.23 Future Advances.

This Mortgage is given to secure not only the Indebtedness but also future advances (whether obligatory or to be made at the option of Mortgagee, or otherwise) made by Mortgagee, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of indebtedness that may be so secured may decrease or increase from time to time, but all indebtedness secured hereby shall in no event exceed an amount equal to two (2) times the original principal amount of the Note, as stated above.

ARTICLE FOUR EVENTS OF DEFAULT

4.1 Defaults.

It shall constitute an event of default ("Event of Default") of and under this Mortgage and, at the option of Mortgagee, under the other Loan Documents, if any of the following events shall occur:

(a) Mortgagor shall fail to pay within five (5) days of the dates or within five (5) days of the times required any of the Indebtedness, including the payment of principal and/or interest under the Note;

(b) Mortgagor shall fail to timely observe, perform or discharge any of the non-monetary Obligations, other than a non-monetary obligation described in any other clause in this Article Four, and any such failure shall remain uncured for thirty (30) days or such lesser period as may be otherwise specified in the applicable Loan Document (the "Grace Period") after notice to Mortgagor of the occurrence of such failure; provided, however, that Mortgagee may, at its option, extend any applicable Grace Period up to ninety (90) days if Mortgagee determines in good faith that: (i) such default cannot reasonably be cured within such Grace Period but can be cured within ninety (90) days; (ii) no lien or security interest created by the Loan Documents shall be impaired prior to the anticipated completion of such cure; and (iii) Mortgagee's immediate exercise of any remedies provided in this Mortgage or by law is not necessary for the protection or preservation of the Secured Property or Mortgagee's security interest therein or lien thereon, and Mortgagor shall immediately commence and diligently pursue the cure of such default;

(c) Mortgagor, as landlord or sublandlord, as the case may be, shall assign or otherwise encumber the Rents or any interest therein without first obtaining the written consent of Mortgagee;

(d) Mortgagor shall, after the expiration of all applicable grace or cure periods, default or be in default under any agreement, other than the Loan Documents, which (i) is secured by a lien on the Secured Property that is junior and subordinate to

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this Mortgage (regardless of whether such lien was obtained with the prior written consent of Mortgagee); (ii) is secured by a lien on the respective interests of the constituent entities in Mortgagor (regardless of whether such lien was obtained with the prior written consent of Mortgagee); or (iii) would, as a result of such default, subject the Secured Property to any mechanics', materialmen's or other lien or claim of lien, other than a lien that constitutes a Contested Lien pursuant to Section 3.5 above;

(c) Should any representation or warranty made by Mortgagor in, under or pursuant to any of the Loan Documents be false or misleading in any material respect as of the date on which such representation or warranty was made or deemed remade;

(d) Should any of the Loan Documents cease to be in full force and effect or be declared null and void, or cease to constitute valid and subsisting liens and/or valid and perfected security interests in, to or upon the Secured Property;

(g) Should any violation of Section 3.11 occur or should any other event occur which, under the terms of the Loan Documents, would permit Mortgagee to accelerate the maturity of the Indebtedness;

(h) Should Mortgagor fail at any time to satisfy the requirements of Section 3.7 and such failure shall continue for fifteen (15) days after written notice thereof;

(i) Should any Mortgagor or Guarantor (A) generally not pay its debts as they become due; (B) admit in writing its inability to pay its debts; or (C) make a general assignment for the benefit of creditors;

(j) Should any Mortgagor or Guarantor commence any case, proceeding or other action seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it and its debts under any law relating to bankruptcy, insolvency, reorganization or relief of debtors, or seeking to have an order for relief entered against it as debtor, or seeking appointment of a receiver for it or for all or any substantial part of its property (collectively, a "Proceeding");

(k) Should any Mortgagor or Guarantor take an action to authorize any of the actions set forth above in subsections (i) or (j) of this Section 4.1;

(l) Should any Proceeding be commenced against any Mortgagor or Guarantor, and such Proceeding results in the entry of an order for relief against it which is not fully stayed within seven (7) business days after the entry thereof or remain undismissed for a period of forty-five (45) days;

(m) Should (i) a final judgment, other than a final judgment in connection with any condemnation, including any judgment or other final determination of any contest permitted by Section 3.5 of this Mortgage, be entered against Mortgagor that (A) adversely affects the value, use or operation of the Secured Property; or (B) adversely affects, or reasonably may tend to adversely affect, the validity, enforceability or priority of the liens or security interests created in and by this Mortgage, or the other Loan

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Documents, or both; or (ii) execution or other final process issue on any judgment with respect to the Secured Property, and Mortgagor shall fail to discharge the same, or provide for its discharge in accordance with its terms, or procure a stay of execution thereon in any event within thirty (30) days from entry, or should Mortgagor not within such period, or such longer period during which execution on such judgment shall have been stayed, appeal therefrom or from the order, decree or process upon or pursuant to which such judgment shall have been entered and cause its execution to be stayed during such appeal, or if on appeal, such order, decree or process shall be affirmed and Mortgagor shall not discharge such judgment or provide for its discharge in accordance with its terms within thirty (30) days after the entry of such order or decree of affirmation, or if any stay of execution on appeal is released or otherwise discharged; and

(n) Should Mortgagor incur any indebtedness or debt other than the Indebtedness except trade payables incurred in the regular course of Mortgagor's business.

ARTICLE FIVE REMEDIES

5.1 Remedies.

(a) Upon the occurrence of an Event of Default, Mortgagee, at its option, may at any time thereafter declare the entire Indebtedness to be immediately due and payable and the same shall thereupon become immediately due and payable, without any further presentment, demand, protest or notice of any kind being required and Mortgagee, at its option and in its sole discretion, shall also be entitled to do any or all of the following:

(i) (A) in person, by agent or by a receiver, without regard to the adequacy of security, the solvency of Mortgagor or the condition of the Secured Property, without obligation to do so and without notice to or demand upon Mortgagor, enter upon and take possession of the Secured Property or any part thereof in its own name or in the name of a trustee and do any acts which Mortgagee deems necessary to preserve the value or marketability of the Secured Property; (B) sue for or otherwise collect the Rents and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, against the Indebtedness, all in such order as Mortgagee may determine; (C) appear in and defend any action or proceeding purporting to affect, in any manner whatsoever, the Indebtedness, the security hereof or the rights or powers of Mortgagee; (D) pay, purchase or compromise any encumbrance, charge or lien that in the judgment of Mortgagee is prior or superior hereto; and (E) in exercising any such powers, pay necessary expenses, employ counsel and pay reasonable attorneys' fees;

(ii) as a matter of strict right and without notice to Mortgagor or anyone claiming under Mortgagor, and without regard to: (A) the solvency of Mortgagor; (B) whether there has been or may be any impairment of or diminution in the value of the Secured Property; or (C) whether the amount of the

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Indebtedness exceeds the then value of the Secured Property, apply *ex parte* to any court having jurisdiction to appoint a receiver to enter upon and take possession of the Secured Property and Mortgagor hereby waives notice of any application therefor, provided, if required by law, a hearing to confirm such appointment with notice to Mortgagor is set within the time required by law (any such receiver shall have all the powers and duties of receivers in similar cases and all the powers and duties of Mortgagee in case of entry as provided herein, and shall continue as such and exercise all such powers until the date of confirmation of sale, unless such receivership is sooner terminated);

(iii) commence an action to foreclose this Mortgage in the manner provided in this Mortgage or by law; and

(iv) with respect to any Collateral, proceed as to both the real and personal property in accordance with Mortgagee's rights and remedies in respect of the Real Estate and Improvements, or proceed to sell said Collateral separately and without regard to the Real Estate and Improvements in accordance with Mortgagee's rights and remedies with respect to the Collateral.

(b) In (i) any action to foreclose the lien of this Mortgage or enforce any other remedy of Mortgagee under any of the Loan Documents; or (ii) any other proceeding whatsoever in connection with any of the Loan Documents or the Secured Property in which Mortgagee is named as a party, there shall be allowed and included, as additional indebtedness in the judgment or decree for sale resulting therefrom, all expenses paid or incurred in connection with such proceeding by or on behalf of Mortgagee including, without limitation, attorneys' and paralegals' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, land and environmental survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title certificates, title searches and examinations, title insurance policies, Torrens certificates and any similar data and assurances with respect to the title to the Secured Property as Mortgagee may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the Secured Property. All expenses and fees of the foregoing nature and such expenses and fees as may be incurred in the protection of the Secured Property and the maintenance of the lien of this Mortgage thereon in any litigation affecting the Loan Documents or the Secured Property, including probate and bankruptcy proceedings, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding in connection therewith, shall upon demand of Mortgagee be immediately due and payable by Mortgagor with interest thereon at the Default Rate from the date of prepayment of such expenses and fees and shall become a part of the Indebtedness secured by this Mortgage.

(c) Unless otherwise provided herein, if Mortgagor shall at any time fail to perform or comply with any of the terms, covenants and conditions required on Mortgagor's part to be performed and complied with under any of the Loan Documents

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or any other agreement that, under the terms of this Mortgage, Mortgagor is required to perform, Mortgagee may, at its option and in its sole discretion:

- (i) make any payments hereunder or thereunder payable by Mortgagor; and/or
- (ii) after the expiration of any applicable grace period and subject to Mortgagor's right to contest certain Obligations specifically granted in this Mortgage, perform any such other acts thereunder on part of Mortgagor to be performed and enter upon the Secured Property for such purpose.
- (d) In any foreclosure sale of the Secured Property, the Secured Property, including the Real Estate and Improvements, may be sold in one parcel (i.e. as a single entity) or in two or more parcels and, otherwise, in such manner or order as Mortgagee, in its sole discretion, may elect or as the court having jurisdiction over such foreclosure sale may otherwise order or direct.
- (e) The proceeds of any foreclosure sale of the Secured Property shall be distributed and applied in accordance with the applicable law of the State of Illinois or as otherwise directed by order of the court in which this Mortgage is foreclosed.
- (f) All remedies of Mortgagee provided for herein are cumulative and shall be in addition to any and all other rights and remedies provided in the other Loan Documents or by law, including any right of offset. The exercise of any right or remedy by Mortgagee hereunder shall not in any way constitute a cure or waiver of any default or Event of Default hereunder or under the Loan Documents, invalidate any act done pursuant to any notice of default or prejudice Mortgagee in the exercise of any of its rights hereunder or under the Loan Documents.
- (g) Notwithstanding the provisions of Article Five of this Mortgage, any foreclosure of all or any portion of the lien of this Mortgage shall be in accordance with the Illinois Mortgage Foreclosure Act, 735 ICLS 5/15-1101 et seq. as from time to time amended (the "Act").
- (h) Mortgagor acknowledges that the transaction of which this Mortgage is a part of a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act). To the fullest extent permitted by law, Mortgagor hereby voluntarily and knowingly waives its rights to reinstatement and redemption as allowed under Section 15-1601(b) of the Act, and to the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium law, under any state or federal law.

ARTICLE SIX SECURITY AGREEMENT AND FIXTURE FILING

6.1 Security Agreement.

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Mortgagor hereby assigns and grants to Mortgagee a first priority present security interest in and to the Rents, Contract Rights, Intangible Personal Property, Tangible Personal Property, Proceeds, Right to Encumber and Other Rights and Interests described in Article Two and in and to any other part or component of the Secured Property which may not be deemed real property or which may not constitute a "fixture" (within the meaning of the Code as defined in this Section 6.1), and all replacements, substitutions and additions of, for and to the same and the proceeds thereof (collectively, the "Collateral") in order to secure payment of the Indebtedness and performance by Mortgagor of the other Obligations. This Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code (the "Code") of the State in which the Real Estate is located.

6.2 Fixture Filing.

This Mortgage, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture filing" within the meaning of the Code with respect to any and all fixtures included within the foregoing description and definition of the Secured Property and any Collateral that may now be or hereafter become "fixtures" within the meaning of the Code.

6.3 Remedies.

If any Event of Default occurs under this Mortgage, Mortgagee, in addition to its other rights and remedies provided under this Mortgage, shall have all the rights and remedies available to a secured party under the Code as well as all other rights and remedies available at law or in equity. Mortgagor upon request by Mortgagee will assemble the Collateral and make it available to Mortgagee at a place Mortgagee designates to allow Mortgagee to take possession or dispose of the Collateral. Mortgagor agrees that five (5) days prior written notice of the time and place of the sale of the Collateral, sent to Mortgagor in the manner provided for the mailing of notices herein, is reasonable notice to Mortgagor. The sale of the Collateral may be conducted by an employee or agent of Mortgagee and any Person, including both Mortgagor and Mortgagee, shall be eligible to purchase any part or all of the Collateral at the sale. The reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, without limitation, attorneys' and paralegals' fees and legal expenses incurred by Mortgagee, and shall be paid by Mortgagor.

6.4 Waivers.

To the extent permitted by law, Mortgagor waives any right to require Mortgagee to (a) proceed against any Person; (b) proceed against or exhaust any Collateral; or (c) pursue any other remedy in its power. Mortgagor further waives any defense arising by reason of any power and any defense arising by reason of any disability or other defense of Mortgagor or any other Person, or by reason of the cessation from any cause whatsoever of the liability of Mortgagor or any other Person. Until the Indebtedness shall have been paid in full, Mortgagor shall not have any right to subrogation and Mortgagor waives any right to enforce any remedy which Mortgagor now has or may hereafter have against Mortgagee or against any other Person and waives any benefit of and any right to participate in any Collateral or security whatsoever now or hereafter held by Mortgagee for or with respect to the Indebtedness and/or the Obligations.

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6.5 Authorization.

Mortgagor hereby authorizes Mortgagee at any time and from time to time during the life of the Loan to file in any filing office in any Code jurisdiction any financing statements, amendments or addendums thereto and continuation statements (the "UCC Documents") in order to perfect or continue the perfection of any security interest granted under this Mortgage or any of the other Loan Documents. Mortgagor agrees to provide any information needed to complete such UCC Documents to Mortgagee promptly upon request.

Mortgagor shall pay to Mortgagee, within five (5) business days of written demand, any and all costs and expenses incurred by Mortgagee in connection with the preparation, processing and filing of any such UCC Documents, including reasonable attorneys' fees and all disbursements. Such costs and expenses shall bear interest at the Default Rate from the date paid by Mortgagee until the date repaid by Mortgagor and such costs and expenses, together with such interest, shall be part of the Indebtedness and shall be secured by this Mortgage.

6.6 Preservation of Mortgagor's Existence.

Mortgagor shall do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and of the State in which the Secured Property is located.

6.7 Notice of Change of Location of Collateral.

Without giving at least thirty (30) days' prior written notice to Mortgagee, Mortgagor shall not add to or change any location at which any of the Collateral is stored, held or located.

ARTICLE SEVEN MISCELLANEOUS

7.1 Notices, Consents, and Approvals.

Any notice, consent or approval that Mortgagee or Mortgagor may desire or be required to give to the other shall be in writing and shall be mailed or delivered to the intended recipient thereof at its address set forth below or at such other address as such intended recipient may from time to time by notice in writing designate to the sender pursuant hereto. Any such notice, consent or approval shall be deemed effective if given (a) by nationally recognized overnight courier for next day delivery one (1) business day after delivery to such courier; (b) by United States mail (registered or certified), two (2) business days after such communication is deposited in the mails; or (c) in person, when written acknowledgment of receipt thereof is given. Except as otherwise specifically required herein, notice of the exercise of any right or option granted to Mortgagee by this Mortgage is not required to be given.

(a) If to Mortgagee:

Mark Trevor
Alliant Credit Union

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P.O. Box 66945
 11545 West Touhy Avenue
 Chicago, Illinois 60666

and with a copy to:

Leah A. Schleicher, Esq.
 Neal, Gerber & Eisenberg LLP
 2 North LaSalle Street, Suite 1700
 Chicago, IL 60602

(b) If to Mortgagor:

1234 N. Halsted, LLC
 2059 Pulaski, LLC
 c/o Zafar Hussain
 1234 N. Halsted Street
 Chicago, IL 60622

Mortgagee's failure to give a copy of any notice to Mortgagor's counsel shall not invalidate any notice given to Mortgagor hereunder.

7.2 Time of Essence.

It is specifically agreed that time is of the essence for all of the terms and provisions contained in this Mortgage.

7.3 Covenants of Mortgage Run with Title to the Real Estate.

The Obligations set forth in this Mortgage are intended as shall be deemed and are hereby declared to be covenants running with the title to the land which constitutes the Real Estate and any and all portions(s) thereof, and such Obligations shall be binding upon and enforceable by the owner and holder of this Mortgage personally against Mortgagor and any successor in title to Mortgagor who or which shall acquire and/or hold title to the Real Estate while the same is subject to and encumbered by this Mortgage. Every Person that shall have, claim, own, hold, accept or otherwise acquire title to the Real Estate, whether or not such title is reflected in the Public Records of the State and County in which the Real Estate is located, shall be conclusively presumed and deemed to have consented and agreed to personally perform each and every covenant and obligation of Mortgagor contained in this Mortgage, to the same extent as the original Mortgagor, whether or not any reference to this Mortgage is contained in the document or instrument pursuant to which such Person shall have acquired title to the Real Estate and whether or not such Person shall have expressly agreed in writing to assume or perform the Obligations of Mortgagor contained in this Mortgage.

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7.4 Governing Law.

This Mortgage shall be governed by and construed in accordance with the laws of the State. To the extent that this Mortgage may operate as a security agreement under the Code, Mortgagee shall have all rights and remedies conferred therein for the benefit of a Secured Party.

7.5 Severability.

If any provision of this Mortgage, or any paragraph, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held invalid, the validity of the remainder of this Mortgage shall be construed as if such invalid part were never included herein.

7.6 Headings.

The headings of articles, sections, paragraphs and subparagraphs in this Mortgage are for convenience of reference only and shall not be construed in any way to limit or define the content, scope or intent of the provisions hereof.

7.7 Grammar.

As used in this Mortgage, the singular shall include the plural, and masculine, feminine and neuter pronouns shall be fully interchangeable, where the context so requires.

7.8 Deed in Trust.

If title to the Secured Property or any part thereof is now or hereafter becomes vested in a trustee, any prohibition or restriction contained herein against the creation of any lien on the Secured Property shall be construed as a similar prohibition or restriction against the creation of any lien on or security interest in the beneficial interest of such trust.

7.9 Successors and Assigns.

This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor, its successors, assigns, legal representatives and all other Persons claiming under or through Mortgagor and the word "Mortgagor" when used herein shall include all such Persons and any others liable for the payment of the Indebtedness or any part thereof, whether or not they have executed the Note or this Mortgage. The words "Mortgagee" when used herein shall include Mortgagee's successors, assigns and legal representatives, including all other holders, from time to time, of the Note.

7.10 No Oral Change.

This Mortgage may only be modified, amended or changed by an instrument in writing signed by Mortgagor and Mortgagee and may only be released, discharged or satisfied of record by an instrument in writing signed by Mortgagee. No waiver of any term, covenant, condition or provision of this Mortgage shall be effective unless given in writing by Mortgagee, and if so given by Mortgagee shall only be effective in the specific instance in which given.

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7.11 Entire Agreement.

This Mortgage and the other Loan Documents supersede, in all respects, all prior written or oral agreements between Mortgagor and Mortgagee relating to the Loan, this Mortgage and the other Loan Documents (including, without limitation, the Loan Application submitted by Mortgagor to Mortgagee in connection with the Loan) and there are no agreements, understandings, warranties or representations between the parties except as set forth in this Mortgage and the other Loan Documents.

7.12 Construction.

Mortgagor acknowledges that Mortgagor and Mortgagor's counsel have reviewed this Mortgage and the other Loan Documents and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party will not be employed in the construction or interpretation of this Mortgage or the other Loan Documents or any amendments or schedules to any of the foregoing.

7.13 Waiver of Trial by Jury.

Mortgagor hereby waives, to the fullest extent permitted by applicable law, the right to trial by jury in any action, proceeding or counterclaim filed by any party, whether in contract, tort or otherwise, relating directly or indirectly to this Mortgage or any acts or omissions of Mortgagor in connection therewith or contemplated thereby.

7.14 Servicing Fees and Expenses.

Mortgagor acknowledges and agrees that Mortgagee shall impose certain reasonable administrative processing fees (the "Servicing Fees") only in connection with (a) the extension, renewal, modification, amendment and termination of the Loan Documents; (b) the release or substitution of collateral therefor; (c) the consideration of any consents, waivers and approvals with respect to the Secured Property or Mortgagor; (d) the review of any Major Lease or proposed Major Lease or the preparation or review of any tenant estoppel certificate or any subordination, non-disturbance and attornment agreement relating to any Major Lease; or (e) any other services provided by Mortgagee or any of its agents to or on behalf of Mortgagor in connection with the Secured Property, the Loan Documents or the Indebtedness secured thereby (the occurrence of any of the foregoing shall hereafter be referred to as a "Servicing Action"). Mortgagor hereby acknowledges and agrees to pay, immediately, upon demand, all such Servicing Fees (as the same may be increased or decreased from time to time), and any reasonable additional fees of a similar type or nature that may be imposed by Mortgagee from time to time in connection with a Servicing Action. Mortgagor shall also be responsible for the payment of all reasonable fees and expenses of Mortgagee's outside counsel in the event that Mortgagee, in its sole discretion, shall determine that the assistance of an outside attorney is necessary or appropriate to accomplish the Servicing Action.

7.15 Subrogation.

To the extent the proceeds of the Indebtedness are used to pay any outstanding lien, charge or encumbrance affecting the Secured Property (including, without limiting the generality

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of the foregoing, any prior lien), Mortgagee shall be subrogated to all rights, interests and liens owned or held by any owner or holder of such outstanding liens, charges and encumbrances, irrespective of whether such liens, charges or encumbrances are released of record; provided, however, the terms and provisions hereof shall govern the rights and remedies of Mortgagee and, to the extent permitted by law without impairing any of Mortgagee's rights of subrogation, shall supersede the terms, provisions, rights and remedies under the lien or liens to which Mortgagee is subrogated hereunder.

7.16 Modifications and Extensions.

Mortgagor and Mortgagee may agree to (a) extend the time for payment of all or any part of the Indebtedness; (b) reduce, rearrange or otherwise modify the terms of payment thereof; (c) accept a renewal note or notes therefor; and (d) otherwise deal with the Secured Property or the Loan Documents, all without notice to or the consent of any junior lienholder or any other Person having an interest in the Secured Property and/or Collateral subordinate to the lien of this Mortgage and without the consent of Mortgagor if Mortgagor has then parted with title to the Secured Property and/or Collateral. No such extension, reduction, modification, renewal or dealing shall affect the priority of this Mortgage or release any liability of Mortgagor or any other Person or impair the security hereof in any manner whatsoever.

7.17 Venue.

ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST MORTGAGEE OR MORTGAGOR ARISING OUT OF OR RELATING TO THIS AGREEMENT MAY BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF CHICAGO, COUNTY OF COOK, AND EACH OF MORTGAGEE AND MORTGAGOR WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND EACH OF MORTGAGEE AND MORTGAGOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING.

[Signature Page Follows]

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be executed as of the date first written above.

2059 PULASKI, LLC

By: Zafar Hussain
 Name: Zafar Hussain
 Title: Sole Member and Sole Manager

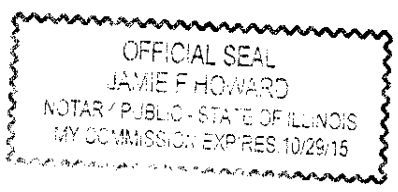
STATE OF Illinois)
) SS:
 COUNTY OF Cook)

Before me, a Notary Public in and for said state, personally appeared Zafar Hussain the Sole Member and Sole Manager of 2059 Pulaski, LLC, an Illinois limited liability company, who acknowledges that he did sign the foregoing instrument in his capacity as ~~Sole Member~~^{Manager} of 2059 Pulaski, LLC, and that the same is his free act and deed this 21 day of December, 2013.

Jamie Howard
 Notary Public
 Commission Expiration:

Sole Member and
 Sole Manager

[Seal]



Cook County Clerk's Office

UNOFFICIAL COPY**EXHIBIT A****LEGAL DESCRIPTION OF REAL ESTATE**

PARCEL 1: LOTS 39 TO 46, AND LOT 38 (EXCEPT THAT PART CONVEYED TO THE CITY OF CHICAGO BY WARRANTY DEED RECORDED APRIL 21, 2011 AS DOCUMENT NO. 1111131077) IN J.A. YALE'S SUBDIVISION OF BLOCK 72 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ALL IN COOK COUNTY, ILLINOIS,

PARCEL 2: LOTS 13 TO 19 INCLUSIVE IN PRICE AND MOSS SUBDIVISION OF THE SOUTHWEST 1/4 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 35, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Parcel 1 tax id number 17-05-225-015

17-05-225-016

17-05-225-017

17-05-225-018

17-05-225-019

Parcel 2 tax id number 13-35-123-001

13-35-123-002

13-35-123-003

13-35-123-004

13-35-123-005

13-35-123-006

13-35-123-007