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Doc#: 1404445016 Fee: \$62.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 02/13/2014 09:50 AM Pg: 1 of 13

This Instrument Was Prepared By
and When Recorded, Return to:

Morrison & Foerster LLP
1290 Avenue of the Americas
New York, New York 10104
Attention: Chris Delson
Ref: 60836-17
PIN: 08-16-200-103

**FIRST AMENDMENT TO (I) MORTGAGE,
ASSIGNMENT OF LEASES AND RENTS,
SECURITY AGREEMENT AND FIXTURE FILING (SECOND LIEN)
AND
(II) ASSIGNMENTS OF LEASES AND RENTS**

This First Amendment to (i) Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing and (ii) Assignments of Leases and Rents (this "Amendment") is made as of the 12 day of February, 2014 by SB ARLINGTON FUNDING COMPANY, INC., a Delaware corporation, having an office c/o Global Securitization Services, LLC, 68 South Service Road, Suite 120, Melville, New York 11747 (the "Borrower"), and ING REAL ESTATE FINANCE (USA) LLC, a Delaware limited liability company, having an office at 1325 Avenue of the Americas, New York, New York 10019, as administrative agent for and on behalf of the Lenders (as defined below) (in such capacity, together with its successors in such capacity, "Administrative Agent").

RECITAL

WHEREAS, the Borrower, the other borrowers party thereto (such parties, including the Borrower, being collectively referred to herein as the "Borrowers"), Administrative Agent and

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the lenders party thereto (collectively, the "Existing Lenders") are parties to that certain Amended and Restated Mezzanine Loan Agreement, dated as of March 19, 2010 (as heretofore amended, the "Existing Loan Agreement"), pursuant to which, *inter alia*, the Existing Lenders made a loan (the "Existing Loan") to the Borrowers in the amount of \$16,500,000, which Existing Loan is evidenced by that certain promissory note dated as of March 19, 2010 (as heretofore amended, collectively, the "Existing Note");

WHEREAS, in connection with the execution and delivery of the Existing Loan Agreement, the Borrower executed and delivered to Administrative Agent (i) that certain mortgage as described in Schedule A-1 attached hereto (the "Existing Instrument"); and (ii) that certain assignment of leases and rents described in Schedule A-2 attached hereto (the "Existing ALR"), in each case with respect to certain property more particularly described in Exhibit A attached hereto;

WHEREAS, concurrently with the execution and delivery of this Amendment, the Borrowers, the lenders party thereto (the "Lenders") and Administrative Agent are entering into a Second Amended and Restated Mezzanine Loan Agreement dated as of the date hereof (the "Second Amended and Restated Loan Agreement") pursuant to which the Existing Loan Agreement is being amended and restated (the Existing Loan Agreement as so amended and restated and as further amended, restated, modified or supplemented and in effect from time to time being hereinafter called the "Loan Agreement"), to amend certain terms and provisions thereof, and to acknowledge an increase in the amount of the Existing Loan to \$18,519,176.96 (the "Loan") (such increase reflecting accrued and unpaid interest added to the Original Mezzanine Loan amount in accordance with the terms of the Existing Loan Agreement), which Loan will be evidenced by various Notes dated as of the date hereof executed and delivered by the Borrowers payable to the order of each Lender according to its respective Pro Rata Share of the Loan (as each such Note may be consolidated, severed, split, modified, amended, restated or extended from time to time, collectively, the "Note"); and

WHEREAS, as a condition to entering into the Second Amended and Restated Mezzanine Loan Agreement, the Lenders have required that the Existing Instrument and the Existing ALR be amended pursuant to the terms and provisions of this Amendment to provide, among other things, that the Existing Instrument and the Existing ALR shall secure the Existing Loan Agreement, as amended and restated by the Second Amended and Restated Mezzanine Loan Agreement.

NOW, THEREFORE, to induce the Lenders to amend and restate the Existing Loan Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower and Administrative Agent have agreed that the Existing Instrument and the Existing ALR shall be hereby modified as follows:

1. Definitions. Each capitalized term used herein and not otherwise defined herein shall have the meaning assigned thereto in the Existing Instrument or the Existing ALR, as applicable.

(a) Existing Instrument. In addition, certain terms defined in the Existing Instrument shall have the following meanings:

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(i) any reference in the Existing Instrument to the term "Instrument" shall mean the Existing Instrument as amended by this Amendment and as the same may be further amended, restated, modified or supplemented and in effect from time to time;

(ii) any reference in the Existing Instrument to the term "Loan Agreement" shall mean the Loan Agreement as defined herein;

(iii) any reference in the Existing Instrument to the term "Note" shall mean the Note as defined herein;

(iv) any reference in the Existing Instrument to the term "Loan" shall mean the Loan as defined herein; and

(v) any reference in the Existing Instrument to the scheduled maturity date shall mean, if the Loan is not sooner paid, July 31, 2015, as may be extended pursuant to the terms of the Loan Agreement.

(b) Existing ALR. In addition, certain terms defined in the Existing ALR shall have the following meanings:

(i) any reference in the Existing ALR to the term "Assignment" shall mean the Existing ALR as amended by this Amendment and as the same may be further amended, restated, modified or supplemented and in effect from time to time;

(ii) any reference in the Existing ALR to the term "Loan Agreement" shall mean the Loan Agreement as defined herein;

(iii) any reference in the Existing ALR to the term "Note" shall mean the Note as defined herein;

(iv) any reference in the Existing ALR to the term "Mortgage" shall mean the Existing Instrument as amended by this Amendment (and as the same may be further amended, restated, modified or supplemented); and

(v) any reference in the Existing ALR to the term "Loan" shall mean the Loan as defined herein.

2. Amendment.

(a) Existing Instrument. The Existing Instrument is hereby amended as follows: The "PROVIDED, HOWEVER" paragraph, page 5, is hereby modified to delete the amount "\$16,500,000" and substitute the following therefor: "\$18,519,176.96"; and

(b) Existing ALR. The Existing ALR is hereby amended as follows: Paragraph A is hereby modified to delete the amount "\$16,500,000" and substitute the following therefor: "\$18,519,176.96".

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3. Confirmation and Restatement. The Borrower, to induce Administrative Agent and the Lenders to consummate the transactions contemplated by the Loan Agreement, and in order to continue to secure payments under the Loan Agreement, hereby confirms and restates the grant to Administrative Agent (on behalf of the Lenders) pursuant to (i) the Existing Instrument of the Property and (ii) the Existing ALR of the Leases and Rents. Nothing contained in this Amendment shall be construed as (a) a novation of the Loan, (b) a release or waiver of all or any portion of the grant to Administrative Agent of the Property pursuant to the Existing Instrument or of the Leases and Rents pursuant to the Existing ALR or (c) an impairment of the lien, charge or priority on the Existing Instrument upon the Property or the Existing ALR upon the Leases and Rents.

4. Representations and Warranties.

(a) The Borrower hereby represents and warrants that the representations and warranties made by it in the Existing Instrument and the Existing ALR are true and correct in all material respects on and as of the date hereof as if made on and as of the date hereof and as if each reference therein to this "Instrument", "Mortgage" or this "Assignment" included reference to the Existing Instrument and the Existing ALR, as applicable, as amended by this Amendment.

(b) The Borrower has full power and authority to enter into this Amendment and perform its obligations hereunder, and the Borrower's execution and delivery of this Amendment has been duly authorized by all necessary corporate, partnership or limited liability company action. No approval, consent, exemption, authorization, or other action by, or notice to, or filing with, any governmental authority or any other Person is necessary or required in connection with the execution, delivery or performance by the Borrower of this Amendment other than in connection with perfecting security interests as provided in the Loan Documents. This Amendment has been duly executed and delivered, and constitutes the legal, valid and binding obligation of the Borrower, enforceable against the Borrower in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency, or similar laws affecting the enforcement of creditors' rights generally, or by equitable principles relating to enforceability.

(c) As of the date hereof and immediately after giving effect to the Second Amended and Restated Mezzanine Loan Agreement and the Amendment Documents, including this Amendment, and the actions contemplated thereby, no Default or Event of Default shall have occurred and be continuing.

5. Miscellaneous.

(a) Controlling Provisions. In the event of any inconsistencies between the provisions of this Amendment and the provisions of any other Loan Document, the provisions of this Amendment shall govern and prevail. Except as expressly amended, modified and supplemented by this Amendment, the Existing Instrument and the Existing ALR shall remain unchanged and in full force and effect and are hereby ratified and confirmed.

(b) Further Assurances. At Administrative Agent's request, the Borrower shall promptly execute any other document or instrument and/or seek any consent or agreement from

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any third party that Administrative Agent reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. At Administrative Agent's request, the Borrower shall promptly cause any other Borrower or any of the holders of any equity interest in any other Borrower, as applicable, to execute any other document or instrument and/or diligently seek any consent or agreement from any third party that Administrative Agent reasonably determines is necessary to evidence or further, or is otherwise relevant to, the intent of the parties, as set forth in this Amendment. The Borrower hereby authorizes Administrative Agent to file such amendments or supplements to any UCC Financing Statements filed in connection herewith, and to take such other actions as may be reasonably necessary, in order to continue and maintain the perfection of its Liens created under the Loan Documents.

(c) Counterparts. This Amendment may be executed by one or more of the parties to this Amendment in any number of separate counterparts, each of which, when so executed, shall be deemed an original and all of said counterparts taken together shall be deemed to constitute but one and the same instrument.

(d) Successors and Assigns. The provisions of this Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, except that the Borrower may not assign or transfer any of its rights or obligations under this Amendment or any of the Loan Documents without the prior written consent of Administrative Agent (which consent may be withheld in Administrative Agent's sole and absolute discretion).

(e) No Third Parties Benefited. This Amendment is made and entered into for the sole protection and legal benefit of the Borrower, Administrative Agent, the Lenders and their permitted successors and assigns, and no other Person shall be a direct or indirect legal beneficiary of, or have any direct or indirect cause of action or claim in connection with, this Amendment or any of the other Loan Documents. Administrative Agent shall not have any obligation under this Amendment to any Person not a party to this Amendment or the other Loan Documents.

(f) **APPLICABLE LAW. THIS AMENDMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED; PROVIDED, HOWEVER, THAT THE LOAN AGREEMENT IS BY ITS TERMS, GOVERNED BY THE INTERNAL LAWS OF THE STATE OF NEW YORK AND IN THE EVENT THAT IT BECOMES NECESSARY, IN CONNECTION WITH THE ENFORCEMENT OF THIS AMENDMENT OR OTHERWISE, TO CONSTRUE OR ENFORCE THE OBLIGATIONS EVIDENCED BY THE LOAN AGREEMENT, THE LOAN AGREEMENT SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF NEW YORK.**

[Signature Pages Follow]

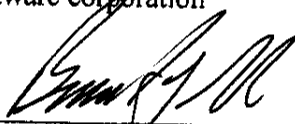
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IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first set forth above.

BORROWER:

SB ARLINGTON FUNDING COMPANY, INC.,
a Delaware corporation

By: _____



Name: Bernard J. Angelo


Title: Vice President

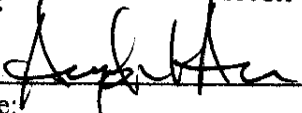
Property of Cook County Clerk's Office

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ADMINISTRATIVE AGENT:

**ING REAL ESTATE FINANCE (USA)
LLC, a Delaware limited liability company,
as Administrative Agent**

By: 
Name: **BENJAMIN HERMAN**
Title: **DIRECTOR**

By: 
Name: **HAYDEN ARNOUX**
Title: **VICE PRESIDENT**

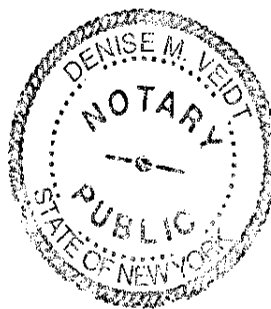
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STATE OF NEW YORK)
)
COUNTY OF SUFFOLK) ss.:

On January 29, 2014, before me, the undersigned, personally appeared Bernard J. Angelo, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.

Denise M. Veidt, Notary
Signature and Office of individual
taking acknowledgement

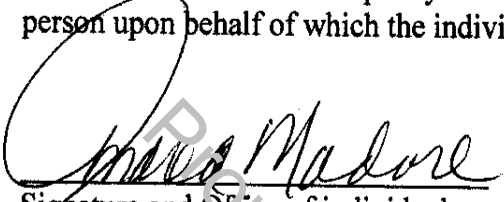


DENISE M. VEIDT
NOTARY PUBLIC-STATE OF NEW YORK
No. 01VE6096171
Qualified in Suffolk County
Certificate on file in New York County
My Commission Expires July 28, 2015

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STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

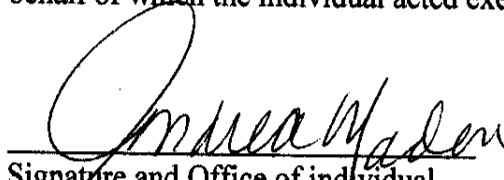
On January 29, 2014, before me, the undersigned, personally appeared Benjamin Herman, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.


Signature and Office of individual
taking acknowledgement

ANDREA M. MADORI
Notary Public - State of New York
No. 01MA6072857
Qualified in Westchester County
Commission Expires April 16, 2014

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

On January 29, 2014, before me, the undersigned, personally appeared Hayden Arnoux, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his capacity and that by his signature on the instrument the individual or the person upon behalf of which the individual acted executed the instrument.


Signature and Office of individual
taking acknowledgement

ANDREA M. MADORI
Notary Public - State of New York
No. 01MA6072857
Qualified in Westchester County
Commission Expires April 16, 2014

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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

LOT 3

(EXCEPTING THEREFROM THAT PART OF LOT 3 DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 3; THENCE SOUTHEASTERLY ALONG A 2541.29 FOOT RADIUS CURVE, BEING ALSO THE NORTHERLY LINE OF SAID LOT 3, THE CENTER OF CIRCLE OF SAID CURVE BEARS ON AN ASSUMED BEARING OF NORTH 47 DEGREES 58 MINUTES 18 SECONDS EAST FROM SAID POINT, CENTRAL ANGLE 2 DEGREES 12 MINUTES 20 SECONDS, 97.82 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHEASTERLY ALONG SAID CURVE CONCAVE TO THE NORTHEAST RADIUS 2541.29 FEET, CENTRAL ANGLE 11 DEGREES 26 MINUTES 54 SECONDS, 507.78 FEET TO A POINT OF REVERSE CURVATURE; THENCE SOUTHERLY ALONG A 30.00 FOOT RADIUS CURVE CONCAVE TO THE SOUTHWEST, CENTRAL ANGLE 55 DEGREES 04 MINUTES 09 SECONDS, 28.83 FEET TO A POINT ON A 2551.07 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 35 DEGREES 00 MINUTE 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2551.07 FEET, CENTRAL ANGLE 8 DEGREES 26 MINUTES 03 SECONDS, 375.52 FEET TO A POINT ON A 2545.12 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF SAID CURVE BEARS NORTH 42 DEGREES 14 MINUTES 05 SECONDS EAST FROM SAID POINT; THENCE NORTHWESTERLY ALONG SAID CURVE, RADIUS 2546.12 FEET, CENTRAL ANGLE 2 DEGREES 18 MINUTES 00 SECONDS, 102.21 FEET; THENCE NORTH 40 DEGREES 00 MINUTES 33 SECONDS WEST 56.36 FEET TO THE POINT OF BEGINNING) IN ARLINGTON PLACE SUBDIVISION, BEING A SUBDIVISION IN SECTION 16, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY THE RECIPROCAL EASEMENT AGREEMENT BY AND BETWEEN URBS-SCHMITT AND KEPPEL INCORPORATED, AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED JULY 3, 1979 AND KNOWN AS TRUST NUMBER 47058 AND OTHERS, DATED AUGUST 2, 1979 AND RECORDED OCTOBER 1, 1979 AS DOCUMENT 25171074 AND FILED OCTOBER 1, 1979 AS DOCUMENT LR 3121973 AND AS AMENDED BY INSTRUMENT RECORDED JUNE 4, 1981 AS DOCUMENT 25893428 AND FILED AS DOCUMENT LR 3218008 FOR INGRESS AND EGRESS IN PART OF ARLINGTON PLACE SUBDIVISION AND

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TEULACH'S SUBDIVISION AS DELINEATED IN SAID AGREEMENT, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS BY AND AMONG AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 45170, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, SAID AGREEMENT BEING DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527048 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296792, OVER, UPON AND ACROSS LOT 1 FOR THE PURPOSE OF USING AND GAINING ACCESS TO A SURFACE WATER DETENTION/RETENTION POND LOCATED IMMEDIATELY EAST OF THE WESTERNMOST LINE OF LOT 1 IN ARLINGTON PLACE SUBDIVISION AFORESAID, AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 1, 1979 AND RECORDED JANUARY 4, 1980 AS DOCUMENT 25306989 AND FILED JANUARY 4, 1980 AS DOCUMENT LR. 3139276 AND ALSO OVER, UPON AND ACROSS LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID FOR THE PURPOSE OF GAINING ACCESS TO SAID POND LOCATED ON SAID LOT 1 AS SHOWN ON DRAWING ATTACHED AS EXHIBIT "A" TO THE AFORESAID AMENDED AND RESTATED EASEMENT AND OPERATING AGREEMENT AND GRANT OF EASEMENTS IDENTIFIED ABOVE, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

EASEMENT FOR THE BENEFIT OF PARCEL 1 AS CREATED BY GRANT OF EASEMENT DATED FEBRUARY 1, 1983 AND RECORDED MARCH 7, 1983 AS DOCUMENT 26527049 AND FILED MARCH 7, 1983 AS DOCUMENT LR. 3296793 BY AND BETWEEN AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 47053, AND AS TRUSTEE UNDER TRUST AGREEMENT NUMBER 52304, OVER, UPON AND ACROSS THAT PART OF LOT 2 IN ARLINGTON PLACE SUBDIVISION AFORESAID AS PICTURED ON EXHIBIT "A", FOR CONSTRUCTING, RUNNING, MAINTAINING AND REPAIRING SANITARY SEWER LINES AND PIPES, IN COOK COUNTY, ILLINOIS.

Property Address: 95 West Algonquin Road, Arlington Heights, Cook County, Illinois, 60005

PIN # 08-16-200-103-0000

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Schedule A-1

Document:	Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing (Second Lien)
Date:	March 19, 2010
Mortgagor:	SB Arlington Funding Company, Inc.
Mortgagee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: April 1, 2010 Doc/Num: 1009141090
Recording Office:	Cook County, Illinois

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Document:	Assignment of Leases and Rents: Project Company Lease and General Lease and Assignment of Assignment of Leases and Rents: End User Lease (Second Lien)
Date:	March 19, 2010
Assignor:	SB Arlington Funding Company, Inc.
Assignee:	ING Real Estate Finance (USA) LLC
Recording Information:	Date: April 1, 2010 Doc/Num: 1009141091
Recording Office:	Cook County, Illinois

Property of Cook County Clerk's Office