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1404926011

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Doc#: 1404926011 Fee: \$82.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 02/18/2014 10:16 AM Pg: 1 of 23

Report Mortgage Fraud
800-532-8785

Property of Cook County Clerk's Office

The property identified as: PIN: 14-17-120-018-0000

Address:

Street: 4450 NORTH CLARK STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60640

Lender: JPMORGAN CHASE BANK, N.A.

Borrower: THE BLACK ENSEMBLE THEATER CORPORATION

Loan / Mortgage Amount: \$5,190,000.00

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.

Box 400-CTCC

S Y
P 20
S N
SC Y
INT R

Certificate number: 977BAD90-85B5-48C0-83AB-28366966884E

Execution date: 02/04/2014

10f2 C+K JYork 8961024

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(The Above Space For Recorder's Use Only)

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

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (the "**Mortgage**") dated as of February 4, 2014, is made by **The Black Ensemble Theater Corporation**, an Illinois not-for-profit corporation, whose address is 4450 N. Clark Street, Chicago, Illinois 60640 ("**Mortgagor**"), in favor of **JPMorgan Chase Bank, N.A.**, whose address is 10 S. Dearborn Street, Floor 36, Chicago, Illinois 60603 (together with its successors and assigns, including each and every holder of the Note, as defined below, "**Mortgagee**").

RECITALS

WHEREAS, pursuant to that certain Bond and Loan Agreement dated as of February 1, 2014 (the "**Bond Agreement**") among the City of Burbank, Cook County, Illinois (the "**Issuer**"), Mortgagor and Mortgagee, the Issuer will issue its Cultural Facility Revenue Bond (the Black Ensemble Theater Cultural Center Project) Series 2014 (the "**Bond**") in the aggregate principal amount of \$5,190,000, and will loan to Mortgagor the proceeds of the sale of the Bond to repay a loan made to Mortgagor for the purpose of financing a portion of the costs of acquisition and construction of a 49,069 square foot theater and cultural center owned and operated by Mortgagor known as The Black Ensemble Theater Cultural Center (consisting of 20,171 square feet of newly constructed space and 28,898 square feet of renovated space) located at 4450 North Clark Street, Chicago, Illinois, together with related parking and other facilities (collectively, the "**Project**"), to pay or reimburse the Borrower for certain additional capital expenditures or working capital paid with respect to the Project and to pay costs of issuance of the Bond;

WHEREAS, as security for the payment of all obligations owed by Mortgagor with respect to amounts due under the Additional Covenants Agreement of even date herewith between Mortgagor and Mortgagee ("**Additional Covenants Agreement**"), Mortgagor will issue its Promissory Note, Series 2014 (the "**Note**"); and

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WHEREAS, as a condition to Mortgagee's purchase of the Bond, and to secure the obligations of Mortgagor under the Bond Agreement, the Note and the Additional Covenants Agreement, Mortgagee has required Mortgagor to execute and deliver this Mortgage.

NOW, THEREFORE, to induce Mortgagee to purchase the Bond, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Mortgagor does hereby GRANT, BARGAIN, SELL, MORTGAGE, WARRANT AND CONVEY to Mortgagee, its successors and assigns, the real estate located in Cook County, Illinois and legally described on Exhibit A attached hereto (the "Property"):

TOGETHER WITH all right, title and interest, including the right of use or occupancy, which Mortgagor may now have or hereafter acquire in and to the following (the Property, together with the property described below, is herein called the "Mortgaged Property"):

(a) any lands occupied by streets, alleys, or public places adjoining the Property;

(b) all improvements, tenements, hereditaments, gas, oil, minerals, easements, fixtures and appurtenances, and all other rights and privileges thereunto belonging or appertaining;

(c) all buildings, improvements, personal property, fixtures, fittings and furnishings, owned by Mortgagor and now or hereafter attached to, located at, or placed in the improvements on the Property including, without limitation all machinery, fittings, fixtures, apparatus, equipment or articles used to supply heating, gas, electricity, air conditioning, water, light, waste disposal, power, refrigeration, ventilation, and fire and sprinkler protection; all maintenance supplies and repair equipment; all draperies, carpeting, floor coverings, screen windows, storm windows and window coverings, blinds, awnings, shrubbery and plants; all elevators and escalators and any shafts, motors, machinery, fittings and supplies necessary for their use; and all building materials and supplies now or hereafter delivered to the Property (it being understood that the enumeration of any specific articles of property shall in no way be held to exclude any items of property not specifically enumerated), as well as renewals, replacements, proceeds, additions, accessories, increases, insurance payments, awards and substitutes thereof, together with all interest of Mortgagor in any such items hereafter acquired, as well as Mortgagor's interest in any lease, or conditional sales agreement under which the same is acquired, all of which personal property mentioned herein shall be deemed fixtures and accessory to the freehold and a part of the realty and not severable in whole or in part without material injury to the Property;

(d) all rents, income, contract rights, leases and profits now due or which may hereafter become due under or by virtue of any lease, license or agreement, whether written or verbal, for the use or occupancy of the Property or the sale of the Property or any part thereof together with all tenant security deposits and earnest money deposits;

(e) all awards, payments and proceeds now or hereafter obtainable by Mortgagor under any policy of insurance insuring the Property including but not limited to the

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proceeds of casualty insurance, title insurance, business interruption insurance, rent insurance or other insurance maintained with respect to the Property whether by Mortgagor or otherwise;

(f) all awards, compensation and settlements in lieu thereof made as a result of the taking by power of eminent domain of the whole or any part of the Property, including any awards for damages sustained to the Property, for a temporary taking, change of grade of streets or taking of access;

(g) all contracts, licenses, permits, management records, files, consents, governmental approvals and intangibles used, useful or required in the ownership, development and management of the Property, together with all soil reports, environmental reports, appraisals, building permits, variances, licenses, utility permits and other permits and agreements relating to the construction or equipping of the improvements on the Property, or the operation or maintenance of the Property, including, without limitation, all warranties and contract rights;

(h) each contract or agreement for the design, construction and equipping of the improvements located or to be located on the Property, together with all rights, title and interest of Mortgagor in and to any existing or future changes, extensions, revisions, modifications, guarantees of performance, or warranties of any kind thereunder;

(i) all plans and specifications, surveys, site plans, working drawings and working papers relating to the Property and the construction and equipping of the improvements on the Property, including without limitation, all architectural and site plans;

(j) all building supplies and materials ordered or purchased for use in connection with the construction and equipping of the improvements on the Property;

(k) all rights and interests of Mortgagor in and under any and all service and other agreements relating to the development, operation, maintenance, and repair of the Property or the buildings and improvements thereon;

(l) all replacements and substitutions for the foregoing whether or not any of the foregoing is or shall be on or attached to the Property; and

(m) all proceeds of the foregoing.

It is mutually agreed, intended, and declared, that all of the aforesaid Mortgaged Property owned by Mortgagor shall, so far as permitted by law, be deemed to form a part and parcel of the Property and for the purpose of this Mortgage be deemed to be real estate and covered by this Mortgage. It is also agreed that if any of the Mortgaged Property is a fixture or of a nature so that a security interest therein can be perfected under the Uniform Commercial Code as in effect in the State of Illinois ("UCC"), this instrument shall constitute a fixture filing or a security agreement, as the case may be, and Mortgagor hereby authorizes Mortgagee to file or refile any financing statement, continuation statement or other instruments Mortgagee may require from time to time to perfect or renew such security interest under the UCC. Mortgagee's filing of one or more separate fixture filing financing statements shall in no way impair Mortgagee's security interest in said fixtures.

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TO HAVE AND TO HOLD the Mortgaged Property and all other properties, rights and privileges hereby conveyed or assigned, unto Mortgagee, its successors and assigns, forever for the uses and purposes herein set forth. Mortgagor hereby releases and waives all rights under and by virtue of any homestead exemption laws, and Mortgagor hereby covenants that as of the date of this Mortgage, Mortgagor is well seized of the Property in fee simple, and with full legal and equitable title to the Mortgaged Property, with good right, full power and lawful authority to sell, assign, convey and mortgage the same, and that the Mortgaged Property is free and clear of encumbrances, except for the Permitted Encumbrances (as such term is defined in the Additional Covenants Agreement), and that Mortgagor will forever defend the same against all lawful claims subject to the Permitted Encumbrances.

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Payment of Indebtedness and Performance of Covenants.

Mortgagor agrees to pay and perform, when due or declared due, all of the Obligations on Mortgagor's part to be paid or performed as provided in this Mortgage and the Related Documents. Any capitalized terms used herein and not otherwise defined herein shall have the meaning provided in the Additional Covenants Agreement.

2. Maintenance, Repair, and Compliance with Law, etc.

(a) Mortgagor agrees: (i) not to abandon the Mortgaged Property; (ii) to keep the Mortgaged Property in good, safe and insurable condition and repair, and not to commit or suffer waste; (iii) to refrain from impairing or diminishing the value of the Mortgaged Property or this Mortgage; and (iv) to cause the Mortgaged Property to be managed in a competent and professional manner.

(b) Without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned and or delayed, Mortgagor shall not cause, suffer or permit any (i) material alterations of the Mortgaged Property except as required by law or ordinance; (ii) change in the identity of the person or firm responsible for managing the Mortgaged Property; (iii) zoning reclassifications with respect to the Mortgaged Property; (iv) unlawful use of, or nuisance to exist upon, the Mortgaged Property; or (v) granting of any easements, licenses, covenants, conditions or declarations of use against the Mortgaged Property.

(c) Mortgagor agrees not to cause or permit any toxic or hazardous substance or waste, or underground storage tanks, or any other pollutants which could be detrimental to the Mortgaged Property, human health, or the environment, or that would violate any local, state or federal laws or regulations (collectively, "**Environmental Conditions**") to be present on or affect the Mortgaged Property, except for such substances used by Mortgagor or its contractors at the Mortgaged Property in the ordinary course of business and in compliance with all applicable environmental laws. If Mortgagee determines that Environmental Conditions exist at the Mortgaged Property, upon written demand, Mortgagor shall take at its own expense any and all measures necessary to eliminate such Environmental Condition. If at any time Environmental Conditions are present or affect the Mortgaged Property, Mortgagor agrees to indemnify, defend

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and save Mortgagee, its successors and assigns, harmless, from and against all damage suffered by reason of the Environmental Conditions.

3. Taxes, Liens.

(a) Mortgagor agrees to pay, not later than the due date and before any penalty or interest attaches, all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed or imposed on or against the Mortgaged Property and, at the written request of Mortgagee, to exhibit to Mortgagee, official receipts evidencing such payments. Notwithstanding the foregoing, Mortgagor may, to the extent and in the manner permitted by law contest the payment of any such taxes, assessments or charges in good faith and by appropriate proceedings provided that (1) any such contests shall be prosecuted diligently and in a manner not prejudicial to the rights, liens and security interests of Mortgagee, (2) Mortgagor shall deposit funds with Mortgagee or obtain a bond or other equivalent insurance in form and substance and with an issuing company satisfactory to Mortgagee in an amount sufficient to cover any amounts which may be owing in the event the contest may be unsuccessful (Mortgagor shall make such deposit or obtain such bond, as the case may be, within ten (10) business days after demand therefor and, if made by payment of funds to Mortgagee, the amount so deposited shall be disbursed in accordance with the resolution of the contest either to Mortgagor or the adverse claimant), (3) no contest may be conducted and no payment may be delayed beyond the date on which the Mortgaged Property could be sold for nonpayment; and (4) Mortgagee may pay over to the taxing authority entitled thereto any or all of the funds at any time when, in the opinion of Mortgagee's counsel, the entitlement of such authority to such funds is established.

(b) Mortgagor shall not create, suffer or permit any mortgage, lien, charge or encumbrance to attach to or be filed against the Mortgaged Property, whether such lien or encumbrance is inferior or superior to the lien of this Mortgage, including mechanic's liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Mortgaged Property and excepting only the Permitted Encumbrances and any liens and encumbrances of Mortgagee. Notwithstanding the foregoing, Mortgagor may in good faith and with due diligence, contest any mechanic's or materialmen's liens or the validity thereof by appropriate legal proceedings which shall have the effect of preventing the collection of such lien or liens so contested; provided that, pending any such legal proceedings Mortgagor shall provide Mortgagee with an endorsement to its lender's policy of title insurance, in form and substance acceptable to Mortgagee and insuring Mortgagee against losses resulting from such lien, or shall give Mortgagee such security as may be deemed satisfactory to Mortgagee to insure payment of the amount of such lien or liens and all interest and penalties thereon. If, at any time during the continuance of such contest, the Property or any part thereof is, in the judgment of Mortgagee, in danger of being forfeited or lost, Mortgagee may use such security for the payment of such lien or liens.

4. Change in Tax Laws.

Mortgagor agrees that, if the United States, or any state or any of their subdivisions having jurisdiction, shall levy, assess, or charge any tax, assessment or imposition (excluding

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any franchise tax, income tax or similar tax) upon this Mortgage or the credit or indebtedness secured hereby or the interest of Mortgagee in the Mortgaged Property or upon Mortgagee by reason of or as holder of any of the foregoing, then, except to the extent Mortgagor is properly contesting such tax, assessment or imposition in accordance with the provisions of this Mortgage, Mortgagor shall pay, or reimburse Mortgagee for, such taxes, assessments or impositions, and, unless all such taxes, assessments and impositions are paid or reimbursed by Mortgagee when and as they become due and payable, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee, notwithstanding anything contained herein or in any law heretofore or hereafter enacted.

5. **Restrictions on Transfer.**

Mortgagor shall not, without the prior written consent of Mortgagee, create, effect, contract for, consent to, suffer or permit any Prohibited Transfer. A "**Prohibited Transfer**" shall be any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Mortgaged Property or any part thereof or interest therein, excepting only sales or other dispositions of collateral no longer useful in connection with the operation of the Mortgaged Property ("**Obsolete Collateral**").

All of the above described transactions shall be Prohibited Transfers if such transactions occur, are granted, accomplished, attempted or effectuated without the prior written consent of Mortgagee. Further, all such transactions shall be Prohibited Transfers regardless of whether such transactions are effected directly, indirectly, voluntarily or involuntarily, by operation of law or otherwise. Mortgagor acknowledges that Mortgagee shall be under no obligation to consent to any Prohibited Transfer and that any such consent may be subject to changes in the applicable interest rates charged under any instrument evidencing the Obligations, the payment of a fee to Mortgagee or such other modifications to the terms and conditions of this Mortgage or any other agreement which evidences or secures the repayment of the Obligations as Mortgagee in its sole discretion may determine. Further, any sale of Obsolete Collateral shall be allowed only to the extent that, prior to or simultaneous with the sale or other disposition thereof, such Obsolete Collateral has been replaced by property of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral.

6. **Insurance.**

Mortgagor will at all times maintain, or cause to be maintained, insurance policies issued by companies acceptable to Mortgagee covering loss by perils, hazards, liabilities and other risks and casualties and in such amounts as required by Mortgagee. All physical damage policies and renewals shall contain a standard mortgagee clause naming only Mortgagee as mortgagee, which clause shall expressly state that any breach of any condition or warranty by Mortgagor shall not prejudice the rights of Mortgagee under such insurance, and a loss payable clause in favor of Mortgagee for property, contents, inventory, equipment, loss of rents and business interruption. All liability policies and renewals shall name Mortgagee as additional insured. No additional parties shall appear in the mortgagee or loss payable clauses without Mortgagee's express prior written consent. All deductibles exceeding U.S. \$10,000 shall be subject to the approval of Mortgagee. In the event of foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in full or partial satisfaction of the Obligations, all right, title and interest of

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Mortgagor in and to the benefit of all prepaid insurance premiums shall pass to the purchaser or grantee and Mortgagor agrees to assist Mortgagee and such purchaser or grantee in obtaining such benefit and replacement insurance policies.

Without limiting the generality of the foregoing, Mortgagor shall maintain or cause to be maintained: (i) all risks form of property insurance covering real and personal property, (ii) commercial general liability insurance and excess umbrella liability insurance, in an amount not less than \$3,000,000, (iii) workers' compensation and employers' liability insurance, (iv) contractual liability insurance, (v) broad form boiler and machinery insurance, including boiler and machinery extra expense, and (vi) unless Mortgagor delivers satisfactory evidence that the same is not necessary, flood insurance.

All policies shall include a provision requiring that the coverage evidenced thereby shall not be terminated or modified without thirty (30) days prior written notice to Mortgagee. All property insurance policies shall also include a provision for law and ordinance change coverage. Mortgagor shall deliver duplicate original certificates evidencing such insurance, including duplicate original certificates for all additional policies, together with evidence of full payment of premiums thereon, to Mortgagee, and, in the case of insurance about to expire, shall deliver duplicate original certificates for each renewal policy, together with evidence of full payment of premiums thereon, not less than thirty (30) days prior to their respective dates of expiration. Mortgagor shall permit Mortgagee to review all such policies upon request by Mortgagee. Mortgagor will not permit any condition to exist on the Mortgaged Property that would wholly or partially invalidate any insurance thereon. Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon as an additional insured and under a mortgagee clause acceptable to Mortgagee. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee the policy or policies of such insurance. If Mortgagor changes insurance companies or materially changes its coverage, at Mortgagee's option, Mortgagee may engage, at Mortgagor's sole cost and expense, an independent insurance consultant acceptable to Mortgagee to review Mortgagor's insurance coverage to confirm such coverage is in compliance with the terms and conditions of this **Section 6**.

Mortgagor shall deliver to Mortgagee, in kind, all instruments representing proceeds of insurance received by Mortgagor. Mortgagor shall notify Mortgagee, in writing, of any loss to the Mortgaged Property covered by the insurance coverage required by this **Section 6**, and Mortgagor hereby directs each insurance company to make payment for such loss directly and solely to Mortgagee; and Mortgagor agrees that any payment which is delivered, for any reason, to Mortgagor shall be held in trust for Mortgagee and promptly delivered in the form received (except for any necessary endorsements thereon) to Mortgagee.

7. Compliance with Laws.

Subject to any right of contest provided in the Additional Covenants Agreement, Mortgagor agrees that it will comply with all restrictions affecting the Mortgaged Property. Mortgagor shall also comply with all laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer, whether federal,

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state or local, exercising any power or regulation or supervision over Mortgagor, or any part of the Mortgaged Property, whether the same be directed to the repair thereof, manner of use thereof, structural alterations or improvements located thereon, or otherwise.

8. Stamp Tax.

Mortgagor agrees that, if the United States Government or any department, agency or bureau thereof or any state or any subdivision thereof shall at any time require documentary stamps or other taxes or impositions to be affixed to the Mortgage, Mortgagor will, upon request, except to the extent Mortgagor is properly contesting such documentary stamps or other taxes or impositions in accordance with the provisions of this Mortgage, pay for the stamps in the required amount and deliver them to Mortgagee, and Mortgagor agrees to indemnify Mortgagee against liability on account of such documentary stamps, whether such liability arises before or after payment of the Obligations and regardless of whether this Mortgage shall have been released.

9. Deposits for Taxes and Insurance Premiums.

After an Event of Default by Mortgagor has occurred and upon written request by Mortgagee, Mortgagor agrees to make monthly deposits into an account set up with Mortgagee, which account shall be pledged to Mortgagee, of an amount equal to the sum of 1/12th of the annual general real estate taxes levied on the Mortgaged Property and 1/12th of the annual premium required to maintain insurance in force on the Mortgaged Property in accordance with the provisions of this Mortgage, the amount of such taxes and premiums, if unknown, to be estimated on the basis of the previous year's taxes or premiums. Mortgagor shall provide Mortgagee with the original real estate tax bill or insurance invoice not later than ten (10) days before the payment is due and shall concurrently deposit into said account an amount equal to the difference between the amount available in the aforesaid escrow account for such payment, giving effect to other taxes or expenses which are also paid from said account, as shown on Mortgagee's records and the amount required to be paid. Provided that no Event of Default, as hereinafter defined, has occurred, funds in such account, including the supplemental deposits required by the preceding sentence, shall be used by Mortgagor to pay such taxes and premiums on their respective due dates. If the amount of funds escrowed in accordance with this **Section 9** shall exceed the amounts due for such taxes and premiums, at Mortgagor's option Mortgagor may withdraw any excess or credit such excess against future payments to be made under this **Section 9**. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may apply such escrowed funds against the Obligations. Following full repayment of the Obligations, Mortgagor may withdraw the balance of all amounts collected in the account and not applied to the payment of taxes and premiums as set forth in this **Section 9**, and no other party shall have any right or claim thereto.

10. Leases.

As additional security for the repayment of the Obligations, Mortgagor hereby pledges and assigns to Mortgagee all the rents, issues and profits of the Mortgaged Property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing, including all deposits or money as advance rent, for security or as earnest money or as down

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payment for the purchase of all or any part of the Mortgaged Property, under any and all present and future leases, contracts or other agreements relative to the ownership or occupancy of all or any portion of the Mortgaged Property. Mortgagor agrees faithfully to perform all of its obligations under all present and future leases or other agreements relative to the occupancy of the Mortgaged Property at any time assigned to Mortgagee as additional security for the payment and performance of the Obligations. Mortgagor further agrees that any lease of the Mortgaged Property made after the date of recording of this Mortgage shall contain a covenant to the effect that the lessee under such lease shall, at Mortgagee's option, agree to attorn to Mortgagee as lessor and, upon demand, to pay rent to Mortgagee.

11. Indemnification.

Mortgagor hereby agrees to indemnify Mortgagee from all loss, damage and expense, including reasonable attorneys' fees and paralegals' fees and expenses and the costs of any settlement or judgment, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage, and all such fees, expenses and costs shall be deemed additional Obligations secured hereby.

12. Condemnation.

Mortgagor hereby assigns, transfers and sets over unto Mortgagee the entire proceeds of any award or any claim for damages for any of the Mortgaged Property (or any interest therein) taken or damaged by the power of eminent domain or by condemnation. Mortgagee shall be entitled (but shall not be obligated) to participate in the collection of such proceeds and any such proceeds shall be first applied to reimburse Mortgagee for all costs and expenses, including reasonable attorneys' fees and expenses, actually incurred in connection with the collection of such proceeds. Mortgagee may retain the remainder of such award in payment or reduction of the Obligations, whether due or not, and any excess after payment in full of the Obligations, shall be returned to Mortgagor; provided, however, that Mortgagee shall hold the proceeds of such award and permit the same to be used to reimburse Mortgagor for the cost of the rebuilding or restoration of the Mortgaged Property in accordance with plans and specifications to be submitted to and approved by Mortgagee (the "**Plans and Specifications**"), so long as: (i) such proceeds are sufficient, in Mortgagee's sole judgment, to complete the rebuilding or restoration of the Mortgaged Property, or if such proceeds are not sufficient in Mortgagee's sole judgment, then Mortgagor shall have paid from its own funds costs of restoration in the amount of such deficiency or, upon written request by Mortgagee, shall have deposited with Mortgagee the amount of such deficiency in cash, (ii) in Mortgagee's reasonable judgment, the Mortgaged Property can be fully rebuilt and restored, can be operated on an economically feasible basis and will have a value substantially the same as that existing prior to such taking, (iii) there is no Event of Default continuing hereunder, and (iv) in Mortgagee's sole judgment, the rebuilding or restoration can be completed prior to the maturity of the Bond. If the proceeds are to be used to reimburse Mortgagor for rebuilding or restoration, the proceeds of the award shall be paid out in the same manner as is provided in **Section 13** below for the payment of insurance proceeds toward the cost of rebuilding or restoration. Any payment or deposit made by Mortgagor under subparagraph (i) above shall be disbursed for the cost of rebuilding or restoration before Mortgagor receives any reimbursement out of the award. Provided that Mortgagee reasonably determines that the Mortgaged Property has been restored to its full function and value, any

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surplus which may remain out of said award after payment of such cost of rebuilding or restoration shall be paid to any other party entitled thereto. If, however, Mortgagee reasonably determines that the Mortgaged Property has not been restored to its full function and value, Mortgagee may apply such surplus on account of the Obligations.

13. Casualty.

(a) In the event of any loss or damage to any portion of the Mortgaged Property due to fire or other casualty, Mortgagor shall have the right, but only if no Event of Default has occurred and is continuing hereunder, to settle insurance claims or agree with the insurance company or companies on the amount to be paid; provided, however that Mortgagee shall be permitted to participate in any such settlement and to hire its own adjusters to advise Mortgagee in connection with any proposed settlement, and any such settlement shall be subject to Mortgagee's written approval; provided further, however, that if a settlement is not reached within a reasonable period of time (as determined by Mortgagee), then Mortgagee shall have the sole right, in its sole discretion, to settle such claim. In any case, Mortgagee shall, subject to **Section 13(b)** below, have the right (but not the obligation) to collect, retain and apply to the Obligations all insurance proceeds (after deduction of all expenses of collection and settlement, including reasonable attorneys' and adjusters' fees and expenses), and if such proceeds are insufficient to pay such amount in full, to declare the balance remaining unpaid on the Note to be immediately due and payable and to avail itself of any of the remedies afforded under this Mortgage or the Related Documents as in the case of any Event of Default or default hereunder or thereunder. Any proceeds remaining after application to the Obligations shall be paid by Mortgagee to Mortgagor or any other party which may be entitled thereto.

(b) Notwithstanding anything to the contrary set forth in **Section 13(a)** above, after deduction of all expenses of collection and settlement, including reasonable attorneys' and adjusters' fees and expenses, Mortgagee shall upon request from Mortgagor, release such proceeds in installments from time to time to Mortgagor provided that:

(i) Mortgagor shall expeditiously repair and restore all damage to the Mortgaged Property resulting from such fire or other casualty so that such repair and restoration will be completed in accordance with the Plans and Specifications;

(ii) The proceeds of insurance, in Mortgagee's sole judgment, are sufficient to complete the repair and restoration of the improvements located on the Mortgaged Property, or if such proceeds of insurance are not so sufficient, then Mortgagor shall have paid from its own funds the costs of restoration in the amount of such deficiency or, upon request by Mortgagee, shall have deposited with Mortgagee the amount of such deficiency in cash;

(iii) no Event of Default shall have occurred hereunder and be continuing; and

(iv) in Mortgagee's sole judgment, the Mortgaged Property (i) can be fully repaired and restored prior to the maturity date of the Bond, (ii) can be

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operated on an economically feasible basis and (iii) will have a value substantially the same as that existing prior to such fire or other casualty.

(c) At Mortgagee's direction, the proceeds of insurance shall be disbursed through a construction loan escrow with a title company and upon terms acceptable to Mortgagee.

(d) All payments made by Mortgagor and all funds received from Mortgagor pursuant to **Section 13(b)** above shall first be fully made or disbursed before disbursement of any insurance proceeds. Provided that Mortgagee reasonably determines that the Mortgaged Property has been restored to its full function and value, any surplus which may remain after payment of such cost of repair and restoration, shall be paid to any other party entitled thereto. If, however, Mortgagee reasonably determines that the Mortgaged Property has not been restored to its full function and value, Mortgagee may apply such surplus on account of the Obligations.

14. **Mortgagee's Performance of Mortgagor's Obligations.**

Mortgagor agrees that Mortgagee may, but need not, make any payment or perform any act hereinbefore required of Mortgagor, in any form and manner deemed reasonably necessary after reasonable inquiry into the validity thereof. By way of illustration, and not in limitation of the foregoing, Mortgagee may, but need not, (a) subject to Mortgagor's right to contest taxes as provided in **Section 3(a)** hereof, make full or partial payments of insurance premiums or tax payments which are unpaid by Mortgagor, if any, or (b) subject to Mortgagor's right to contest taxes as provided in **Section 3(a)** hereof, purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, or claim against the Mortgaged Property, or (c) redeem all or any part of the Mortgaged Property from any sold taxes. All money paid for any of the purposes herein authorized and all other moneys advanced by Mortgagee to protect the Mortgaged Property and the lien hereof shall be additional Obligations secured hereby and shall become immediately due and payable without notice and shall bear interest at the rate of interest payable after default under the terms of the Note, or if no such rate is specified, at the Default Rate until paid to Mortgagee in full. In making any payment hereby authorized, Mortgagee shall determine the legality, validity and priority thereof and of the amount necessary to be paid in satisfaction thereof in its sole discretion.

15. **Inspection.**

Mortgagee, or any person designated by Mortgagee in writing, shall have the right, from time to time hereafter, to call at the Mortgaged Property, or at any other place where information relating thereto is kept or located, during reasonable business hours and, without hindrance or delay, to make such inspection and verification of the Mortgaged Property (provided that, unless an Event of Default has occurred and is continuing, Mortgagee and its employees, contractors and agents shall use commercially reasonable efforts to avoid disrupting the business being conducted at the Mortgaged Property in connection with any such inspection), and the affairs, finances and business of Mortgagor, including all books, records and documents relating thereto, in connection with the Mortgaged Property, as Mortgagee may consider reasonable under the circumstances, and to discuss the same with any agents or employees of Mortgagor. Mortgagor

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shall be liable for all reasonable costs and fees related to such inspections, field audits and verifications.

16. Events of Default.

The occurrence of any Event of Default as defined in Additional Covenants Agreement shall be an "Event of Default" hereunder.

17. Rights Upon Default.

If any Event of Default shall have occurred, then, to the extent permitted by applicable law, the following provisions shall apply:

(a) All sums secured hereby shall, at the option of Mortgagee, become immediately due and payable without presentment, demand or further notice.

(b) It shall be lawful for Mortgagee to take all actions authorized under applicable law or under any other agreement or instrument delivered by Mortgagor to Mortgagee including, without limitation, the Related Documents.

(c) It shall be lawful for Mortgagee to immediately foreclose this Mortgage.

(d) If a suit is brought to foreclose this Mortgage, the court in which any proceeding is pending for the purpose of foreclosure of this Mortgage may, at once or at any time thereafter, either before or after sale, without notice and without requiring bond, and without regard to the solvency or insolvency of any person liable for payment of the Obligations, and without regard to the value of the Mortgaged Property or the occupancy thereof as a homestead, appoint Mortgagee as a mortgagee-in-possession or appoint a receiver (the provisions for the appointment of a receiver or mortgagee-in possession being an express condition upon which the Bond was purchased) for the benefit of Mortgagee with power to collect the rents, issues and profits of the Mortgaged Property, due and to become due, during such foreclosure suit and to do all other things allowed under applicable law. Nothing herein contained shall be construed as constituting Mortgagee as a mortgagee-in-possession in the absence of the taking of actual possession of the Mortgaged Property by Mortgagee, and in the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

(e) Mortgagee shall, at its option, have the right, acting through its agents or attorneys, either with or without process of law, forcibly or otherwise, to enter upon and take possession of the Mortgaged Property, expel and remove any persons, goods, or chattels occupying or upon the same, to collect or receive all the rents, issues and profits thereof and to manage and control the same, and to lease the same or any part hereof, from time to time, and after deducting all reasonable attorneys' fees and expenses, and all reasonable expenses incurred in the protection, care, maintenance, management and operation of the Mortgaged Property, apply the remaining net income upon the Obligations or other sums secured hereby or upon any deficiency decree entered in any foreclosure proceedings.

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(f) Mortgagee or its duly authorized agent shall have the right to enter upon the Mortgaged Property to inspect, appraise and/or conduct any environmental assessments of the Mortgaged Property which Mortgagee, in its sole discretion, deems necessary. All expenses incurred by Mortgagee in connection with any inspections, appraisals or environmental assessments done pursuant hereto shall be additional Obligations secured hereby and shall become immediately due and payable without notice and shall bear interest at the Default Rate until paid to Mortgagee in full. Nothing contained in this **Section 17(f)** shall create an affirmative duty on the part of Mortgagee, or otherwise bind Mortgagee in any respect, to conduct any such inspection, appraisal or environmental assessment.

(g) If more than one property, lot or parcel is covered by this Mortgage, and if this Mortgage is foreclosed upon, such foreclosure action may be pursued against any one or more of the properties, lots or parcels and not upon the others, or upon all of such properties or parcels, either together or separately, and at different times or at the same time, and foreclosure sales may likewise be conducted separately or concurrently, in each case at Mortgagee's election.

(h) In the event of a foreclosure of this Mortgage, the Obligations then due to Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more other mortgages which also secure the Obligations.

18. Foreclosure.

In any foreclosure of this Mortgage, there shall be allowed, and included in the decree for sale to be paid out of the rents or the proceeds of such foreclosure proceeding or sale the following:

- (a) all of the Obligations and other sums secured hereby which then remain unpaid;
- (b) all other items advanced or paid by Mortgagee pursuant to this Mortgage or any other Bond Document, with interest thereon at the Default Rate from the date of advancement; and
- (c) all court costs, reasonable attorneys' and paralegals' fees and expenses, appraiser's fees, advertising costs, notice expenses, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs, which may be estimated as to items to be expended after entry of the decree, of procuring all abstracts of title, title searches and examinations, title guarantees, title insurance policies, and similar data with respect to title which Mortgagee may deem necessary. All such expenses shall become additional Obligations secured hereby and immediately due and payable, with interest thereon at the Default Rate, when paid or incurred by Mortgagee in connection with any proceedings, including but not limited to probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant, or defendant, by reason of this Mortgage or any indebtedness hereby secured or in connection with the preparations for the commencement of any suit for foreclosure, whether or not actually commenced. The proceeds of any sale shall be distributed and applied to the items

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described in (a), (b) and (c) of this paragraph as Mortgagee may in its sole discretion determine, and any surplus of the proceeds of such sale shall be paid to Mortgagor.

19. **Rights Cumulative.**

Each remedy or right of Mortgagee shall not be exclusive of, but shall be in addition to, every other remedy or right now or hereafter existing at law or in equity. No delay in the exercise of or omission to exercise any remedy or right accruing on any default shall constitute a waiver of default or constitute acquiescence therein, nor shall it affect any subsequent default of the same or different nature.

20. **Execution of Additional Documents.**

Mortgagor agrees that, upon written request of Mortgagee from time to time, Mortgagor will execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage.

21. **WAIVER OF RIGHT OF REDEMPTION.**

MORTGAGOR REPRESENTS THAT IT HAS BEEN AUTHORIZED TO, AND MORTGAGOR DOES HEREBY, WAIVE, TO THE FULL EXTENT PERMITTED UNDER LAW, ANY AND ALL STATUTORY OR EQUITABLE RIGHTS OF REDEMPTION, FOR REINSTATEMENT OR ANY OTHER RIGHT UNDER ANY "MORATORIUM LAW" ON BEHALF OF MORTGAGOR AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PROPERTY SUBSEQUENT TO THE DATE HEREOF.

22. **Representation of Title.**

At the time of the delivery of this Mortgage, Mortgagor is well seized of an indefeasible estate in fee simple in the portion of the Mortgaged Property which constitutes real property and owns good title to the portion of the Mortgaged Property which constitutes personal property and has good right, full power and lawful authority to convey and mortgage and grant a security interest in the same, in the manner and form aforesaid, subject to the Permitted Encumbrances; that the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever (except for the Permitted Encumbrances), and that Mortgagor shall and will forever defend the title to the Mortgaged Property against the claims of all persons whatsoever (subject to the Permitted Encumbrances).

23. **Future Advances.**

This Mortgage is given to secure the payment and performance of all Obligations of Mortgagor under the Related Documents and any other amount or amounts that may be added to the indebtedness secured hereby under the terms of this Mortgage, all of which indebtedness being equally secured with and having the same priority as any amounts advanced at the date hereof. It is agreed that any future advances made by Mortgagee to or for the benefit of Mortgagor from time to time under this Mortgage or any of the other Related Documents and

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whether or not such advances are obligatory or are made at the option of Mortgagee, or otherwise, made at any time from the date of this Mortgage, and all interest accruing thereon, shall be equally secured by this Mortgage and have the same priority as all amounts, if any, advanced as of the date hereof and be subject to all of the terms and provisions of this Mortgage.

24. Non-Marshalling Provision.

Mortgagor hereby agrees that Mortgagee shall have no obligation to marshal any collateral which secures the Obligations, and Mortgagor shall require any other of its creditors to waive any such marshalling obligation.

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

(a) Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference;

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

(c) All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage, or the Related Documents or by the Act (collectively "**Protective Advances**"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(i) all advances by Mortgagee in accordance with the terms of the Mortgage or any other Bond Document to: (i) preserve, maintain, repair, restore or rebuild the improvements upon the Mortgaged Property; (ii) preserve the lien of the Mortgage or the priority thereof; or (iii) enforce the Mortgage, as referred to in Subsection (b) (5) of Section 5/15-1302 of the Act;

(ii) payments by Mortgagee of (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (ii) real estate taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever which are

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assessed or imposed upon the Mortgaged Property or any part thereof; (iii) other obligations authorized by the Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(iii) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(iv) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of the Mortgage as referred to in Section 5/15-1504(d)(2) and 5/15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of the Mortgage or arising from the interest of Mortgagee hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Mortgaged Property;

(v) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 5/15-1508 (b) (1) of the Act;

(vi) expenses deductible from proceeds of sale as referred to in Section 5/15-1512 (a) and (b) of the Act;

(vii) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if the Mortgaged Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Mortgagor's interest in the Mortgaged Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Property imposed by Section 5/15-1704 (c) (1) of the Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments deemed by Mortgagee to be required for the benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; (vii) costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by any of the Related Documents; (viii) payments required to be paid by Mortgagor or Mortgagee pursuant to any lease or other agreement for occupancy

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of the Mortgaged Property; and (ix) if the Mortgage is insured, payment of FHA or private mortgage insurance required to keep such insurance in force;

(d) All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate;

(e) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b) (5) of Section 5/15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) the determination of the amount of indebtedness secured by this Mortgage at any time; (ii) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudication or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose; (iii) if right of redemption is deemed not to be waived by this Mortgage, computation of amount required to redeem, pursuant to subsections (d)(2) and (e) of Section 15-1603 of the Act; (iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) application of income in the hands of any receiver or mortgagee in possession; and (vi) computation of any deficiency judgment pursuant to subsections (b)(2) and (e) of Sections 15-1508 and Section 15-1511 of the Act;

(f) In addition to any provision of this Mortgage authorizing Mortgagee to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Mortgaged Property or, at its request, to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities and duties, as provided for in Sections 5/15-1701 and 5/15-1703 of the Act;

(g) Mortgagor acknowledges that the Mortgaged Property does not constitute agricultural real estate, as said term is defined in Section 5/15-1201 of the Act, or residential real estate, as defined in Section 5/15-1219 of the Act;

(h) Pursuant to Section 5/15-1601(b) of the Act, Mortgagor hereby waives any and all right of redemption;

(i) Notwithstanding anything herein to the contrary, the total indebtedness secured by this Mortgage, exclusive of Protective Advances, shall not exceed \$10,380,000;

(j) The maturity date of the Obligations is August 1, 2034 subject to mandatory tender and redemption of the Bond; and

(k) The Bond bears interest at a fixed rate of 3.15% per annum, subject to adjustment to the Taxable Equivalent Rate (as defined in the Bond Agreement) if a Determination of Taxability (as defined in the Bond Agreement) occurs, and subject to a Tax

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Rate Adjustment (as defined in the Bond Agreement) if a change in the Statutory Tax Rate (as defined in the Bond Agreement) causes a reduction in the taxable-equivalent yield on the Bond.

26. **Business Loan.** The proceeds of the Bond have been used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire principal obligation secured hereby constitutes (a) a “*business loan*” as that term is defined in 815 ILCS 205/4 (1) (c); and, (b) a “*loan secured by a mortgage on real estate*” within the purview and operation of 815 ILCS 205/4 (1) (1).

27. **Collateral Protection Insurance.** If at any time Mortgagor fails to provide Mortgagee with evidence of the insurance coverage required by this Mortgage and the Related Documents, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interest in the Mortgaged Property. This insurance may, but need not, protect Mortgagor's interests. The coverage that Mortgagee purchases may not pay any claim that Mortgagor may make or any claim that is made against Mortgagor in connection with the Mortgaged Property. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage and the Related Documents. If Mortgagee purchases insurance for the Mortgaged Property, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges that Mortgagee imposes in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to Mortgagor's total outstanding balance or obligation secured hereby. The costs of the insurance may be more than the costs of insurance that Mortgagor may be able to obtain through Mortgagor's own efforts.

28. **Miscellaneous.**

(a) Mortgagor agrees that, without affecting the liability of any person for payment of the Obligations or affecting the lien of this Mortgage upon the Mortgaged Property or any part thereof (other than persons or property explicitly released as a result of the exercise by Mortgagee of its rights and privileges hereunder), Mortgagee may at any time and from time to time, on request of Mortgagor, without notice to any person liable for payment of any Obligations secured hereby, extend the time, or agree to alter the terms of payment of such Obligations.

(b) Mortgagor certifies and agrees that the proceeds of the Bond will be used for proper business purposes, and consistently with all applicable laws and statutes.

(c) Mortgagor agrees that this Mortgage is to be construed and governed by the laws of the State of Illinois. Wherever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

(d) Upon full payment of all sums secured hereby, at the time and in the manner provided, a satisfaction of mortgage shall be provided by Mortgagee to Mortgagor.

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(e) This Mortgage shall be binding upon Mortgagor and upon the successors, assigns and vendees of Mortgagor and shall inure to the benefit of Mortgagee's successors and assigns. All references herein to Mortgagor and to Mortgagee shall be deemed to include their successors and assigns. Mortgagor's successors and assigns shall include, without limitation, a receiver, trustee or debtor in possession of or for Mortgagor. Further, the terms "Bond Note" and "Bank Note" as used herein shall also include any note or notes executed in renewal, substitution, amendment or replacement thereof.

(f) Time is of the essence of this Mortgage, and any other document or instrument evidencing or securing the Obligations.

(g) Notices and other communications provided for in this Mortgage shall be in writing and shall be delivered personally, sent via facsimile (with copy to follow by certified or registered mail), mailed, by certified or registered mail, postage prepaid or delivered by overnight courier address:

If to Mortgagee:

The Black Ensemble Theater Corporation
4450 N. Clark Street
Chicago, Illinois 60640
Attention: Jackie Taylor
Facsimile: (773) 769-4533

If to Mortgagor:

JPMorgan Chase Bank, N.A.
10 S. Dearborn Street, Floor 02
Chicago, Illinois 60603
Attention: Hamed A. Hashmy
Facsimile: (866) 779-1191

All notices and other communications given to any party hereto in accordance with the provisions of this Mortgage shall be deemed to have been given on the date of personal delivery, mailing or facsimile transmission and on the date one business day after delivery to an overnight courier, in each case addressed to such party as provided in this Section 28(g) or in accordance with the latest unrevoked direction from such party.

(h) No modification, waiver, estoppel, amendment, discharge or change of this Mortgage or any related instrument shall be valid unless the same is in writing and signed by the party against which the enforcement of such modification, waiver, estoppel, amendment, discharge or change is sought.

(i) All monies paid for the purposes herein, and all costs, fees and expenses paid or incurred in connection therewith, shall be part of Obligations, payable by Mortgagor to Mortgagee on demand. Mortgagor shall pay all of Mortgagee's reasonable expenses, including,

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but not limited to, appraisal fees, title company fees, survey fees, and reasonable attorneys' fees, related to the transactions contemplated hereby.

(j) TO INDUCE MORTGAGEE TO ACCEPT THIS MORTGAGE, MORTGAGOR IRREVOCABLY AGREES THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT, ARISING OUT OF OR FROM OR RELATED TO THIS MORTGAGE MAY BE LITIGATED OR ENFORCED IN THE STATE OR FEDERAL COURTS LOCATED IN THE COUNTY OF COOK, STATE OF ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY SUCH COURT LOCATED WITHIN SAID COUNTY AND HEREBY WAIVES ANY OBJECTION IT MAY HAVE BASED ON IMPROPER VENUE OR FORUM NON CONVENIENS TO THE CONDUCT OF ANY PROCEEDING BROUGHT AGAINST MORTGAGOR BY MORTGAGEE IN ACCORDANCE WITH THIS PARAGRAPH.

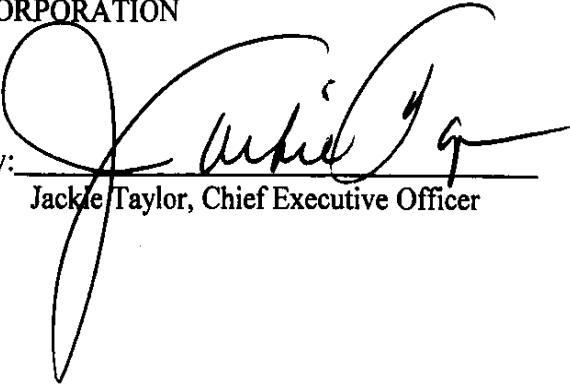
(k) MORTGAGOR AND MORTGAGEE IRREVOCABLY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING (I) TO ENFORCE OR DEFEND ANY RIGHTS UNDER OR IN CONNECTION WITH THIS MORTGAGE OR ANY AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR (II) ARISING FROM ANY DISPUTE OR CONTROVERSY IN CONNECTION WITH OR RELATED TO THIS MORTGAGE OR ANY SUCH AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

IN WITNESS WHEREOF, this instrument is executed by Mortgagor as of the date first above written.

[SIGNATURE PAGE FOLLOWS]

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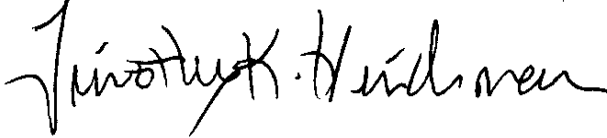
THE BLACK ENSEMBLE THEATER CORPORATION

By: 
Jackie Taylor, Chief Executive Officer

STATE OF ILLINOIS)
) ES
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that Jackie Taylor personally known to me to be the Chief Executive Officer of The Black Ensemble Theater Corporation, and personally known to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that she signed and delivered the said instrument in her capacity as Chief Executive Officer of such corporation as her free and voluntary act and deed and as the free and voluntary act and deed of said company for the uses and purposes therein set forth.

Given under my hand and official seal this 4th day of February, 2014.





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EXHIBIT A

LEGAL DESCRIPTION

LOTS 1, 2, 3, AND 4 IN BLOCK 23 IN RAVENSWOOD, BEING A SUBDIVISION OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF THE NORTHWEST ¼ OF SECTION 17, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Common Address: 4450 North Clark Street, Chicago, Illinois 60640
PIN(s): 14-17-120-018-0000
14-17-120-019-0000

Prepared By and After
Recording Return To:

Wayne F. Osoba
Foley & Lardner LLP
321 North Clark Street
Suite 2800
Chicago, Illinois 60654-5313