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8936387 02/14/2014

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1409342039 Fee: \$98.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 04/03/2014 11:09 AM Pg: 1 of 31

Report Mortgage Fraud
800-532-8785

The property identified as: **Pin** 24-34-300-018-0000

Address:

Street: 4742-4756 WEST CAL SAG ROAD

Street line 2:

City: CRESTWOOD

State: IL

ZIP Code: 60445

Lender: BRANCH BANKING AND TRUST COMPANY

Borrower: CAL SAG AT CRESTWOOD CROSSING LLC

Loan / Mortgage Amount: \$2,908,750.00

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

Certificate number: 99693B23-C798-4D85-8DF5-035C835C2BB7

Execution date: 03/14/2014

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UNOFFICIAL COPYPrepared By: *R. M. Pollak*

Richard M. Pollak, Esquire
 Troutman Sanders LLP
 1850 Towers Crescent Plaza
 Suite 500
 Tysons Corner, Virginia 22182

Address of Property Covered hereby:
 4742-4756 West Cal Sag Road
 Crestwood, Illinois 60445

Property Tax Index Number: 24-34-300-018-0000

MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING

This document serves as a Fixture Filing under Section 5/9-502 of the Illinois Uniform Commercial Code.

Mortgagor's Organizational Identification Number is 04711246.

THIS MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING is made this 14th day of March, 2014, by CAL SAG AT CRESTWOOD CROSSING LLC, an Illinois limited liability company (herein referred to as the "Mortgagor"), to BRANCH BANKING AND TRUST COMPANY, a North Carolina banking corporation (herein referred to as the "Lender").

RECITALS

A. The Mortgagor has requested that the Lender make a term loan in the original principal amount of \$2,908,750 (herein referred to collectively as the "Loan") to the Mortgagor and 1933 Montana Ave LLC ("Montana"). The Loans will be evidenced by the Mortgagor and Montana's Promissory Note of even date hereof (herein referred to as the "Note").

B. As a condition precedent to making the Loan to the Mortgagor, the Lender required that the Mortgagor secure the payment and performance of all obligations of the Mortgagor arising out of, or in connection with, the Loan by the execution of this Mortgage, Assignment and Security Agreement.

NOW THEREFORE, in order to induce the Lender to make the Loan to the Mortgagor, the Mortgagor agrees as follows:

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ARTICLE I DEFINITIONS, RULES OF CONSTRUCTION.

Section 1.1 Recitals; Incorporation by Reference.

(a) The foregoing Recitals constitute a material part of this Mortgage and by this reference are incorporated herein in their entirety to the same extent as if recited herein at length.

(b) The terms of the Loan Agreement and the Note described in the foregoing Recitals and the terms of all other Loan Documents (as hereinafter defined) are by this reference incorporated herein.

Section 1.2 Definitions.

As used in this Mortgage, Assignment, Security Agreement and Fixture Filing, the terms defined in the Preamble and Recitals hereto shall have the respective meanings specified therein, and the following terms shall have the meanings indicated:

“Accounts” means all accounts of the Mortgagor within the meaning of the Uniform Commercial Code of the State derived from or arising out of the use, occupancy or enjoyment of the Property or for services rendered therein or thereon.

“Additions” means any and all alterations, additions, accessions and improvements to property, substitutions therefor, and renewals and replacements thereof.

“Casualty” means any act or occurrence of any kind or nature that results in damage, loss or destruction to the Property.

“Claim” means any liability, suit, action, claim, demand, loss, expense, penalty, fine, judgment or other cost of any kind or nature whatsoever, including without limitation, fees, costs and expenses of attorneys, consultants, contractors and experts.

“Condemnation” means any taking of title, of use, or of any other property interest under the exercise of the power of eminent domain, whether temporarily or permanently, by any Governmental Authority or by any Person acting under Governmental Authority.

“Condemnation Awards” means any and all judgments, awards of damages (including, but not limited to, severance and consequential damages), payments, proceeds, settlements, amounts paid for a taking in lieu of Condemnation, or other compensation heretofore or hereafter made, including interest thereon, and the right to receive the same, as a result of, or in connection with, any Condemnation or threatened Condemnation.

“Contracts of Sale” means any contracts for the sale of all or any part of the Property or any interest therein, whether now or hereafter executed, including, without limitation, all of the Proceeds thereof, any funds deposited thereunder to secure performance by the purchasers of their obligations and the right, after the occurrence of an Event of Default, to receive and collect all payments due under any contracts of sale.

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“Default” means an event which, with the giving of Notice or lapse of time, or both, could or would constitute an Event of Default under the provisions of this Mortgage.

“Encumbrance” means any Lien, easement, right of way, roadway (public or private), common area, condominium regime, cooperative housing regime, restrictive covenant, Lease or other matter of any nature that would affect title to the Property.

“Environmental Assessment” means a report of an environmental assessment of the Property of such scope (including but not limited to the taking of soil borings and air and groundwater samples and other above and below ground testing) as the Mortgagee may request, prepared by a recognized environmental consulting firm acceptable to the Mortgagee in all respects and sufficient in detail to comply with the Mortgagee’s established guidelines and the guidelines of any appropriate Governmental Authority.

“Environmental Requirement” means any Law or other agreement or restriction, whether public or private (including but not limited to any condition or requirement imposed by any insurer or surety company) now existing or hereafter created, issued or enacted and all amendments thereto, modifications thereof and substitutions therefor, which in any way pertains to human health, safety or welfare, Hazardous Materials, Hazardous Materials Contamination or the environment (including but not limited to ground, air, water or noise pollution or contamination, and underground or above ground tanks) and shall include without limitation, the Resource Conservation and Recovery Act (the Solid Waste Disposal Act), 42 U.S.C. § 6901 *et seq.*; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. § 9601 *et seq.* (“CERCLA”), as amended by the Superfund Amendments and Reauthorization Act of 1986 (“SARA”); the Hazardous Materials Transportation Act, 49 U.S.C. § 1801 *et seq.*; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 *et seq.*; the Clean Air Act, 42 U.S.C. § 7401 *et seq.*; the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.*; and the Safe Drinking Water Act, 42 U.S.C. § 300f *et seq.*

“Equipment” means all building materials, fixtures, equipment and other tangible personal property of every kind and nature whatsoever (other than consumable goods, and trade fixtures or other personal property owned by tenants occupying the Improvements), now or hereafter located or contained in or upon, or attached to, the Real Property, whether now owned or hereafter acquired by the Mortgagor; together with all Additions to the Equipment and Proceeds thereof.

“Event of Default” means the occurrence of any one or more of the events specified in ARTICLE VI (Events of Default) and the continuance of such event beyond the applicable cure periods, if any, set forth in ARTICLE VI (Events of Default).

“Expenses” means all costs and expenses of any nature whatsoever incurred at any time and from time to time (whether before or after an Event of Default) by the Mortgagee in exercising or enforcing any rights, powers and remedies provided in this Mortgage or any of the other Loan Documents, including, without limitation, attorney’s fees, court costs, receiver’s fees, management fees and costs incurred in the repair, maintenance and operation of, or taking possession of, or selling, the Property.

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“Governmental Authority” means any governmental or quasi-governmental entity, including, without limitation, any department, commission, board, bureau, agency, administration, service or other instrumentality of any governmental entity.

“Hazardous Materials” means any and all hazardous or toxic substances, wastes or materials which, because of their quantity, concentration, or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard or nuisance to human health, safety or welfare or to the environment when used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled, including without limitation, any substance, waste or material which is or contains asbestos, radon, polychlorinated biphenyls, urea formaldehyde, explosives, radioactive materials or petroleum products.

“Hazardous Materials Contamination” means the contamination (whether presently existing or occurring after the date of this Mortgage) of the Improvements, facilities, soil, ground water, air or other elements on, in or constituting a part of, the Property by Hazardous Materials, or the contamination of the buildings, facilities, soil, ground water, air or other elements on, in or constituting a part of, any other property as a result of Hazardous Materials at any time (whether before or after the date of this Mortgage) emanating from the Property.

“Improvements” means all buildings, structures and other improvements now or hereafter existing, erected or placed on the Land, or in any way used in connection with the use, enjoyment, occupancy or operation of the Land.

“Land” means the land described in Exhibit “A” attached hereto, together with (a) all estates, title interests, title reversion rights, increases, issues, profits, rights of way or uses, additions, accretions, servitudes, gaps, gores, liberties, privileges, water rights, water courses, alleys, streets, passages, ways, vaults, licenses, tenements, franchises, hereditaments, appurtenances, easements and other rights, now or hereafter owned by the Mortgagor and belonging or appertaining to the Land, (b) all Claims whatsoever of the Mortgagor with respect to the Land, either at law or in equity, in possession or in expectancy, and (c) all estate, right, title and interest of the Mortgagor in and to all streets, roads and public places, opened or proposed, now or hereafter adjoining or appertaining to, the Land.

“Laws” means federal, state and local laws, statutes, rules, ordinances, regulations, codes, licenses, authorizations, decisions, injunctions, interpretations, orders or decrees of any court or other Governmental Authority having jurisdiction as may be in effect from time to time.

“Leases” means all leases, license agreements and other occupancy or use agreements (whether oral or written), now or hereafter existing, which cover or relate to the Property, together with all options therefor, amendments thereto and renewals, modifications and guarantees thereof, including, without limitation, any cash or securities deposited under the Leases to secure performance by the tenants of their obligations under the Leases, whether such cash or securities are to be held until the expiration of the terms of the Leases or applied to one or more of the installments of rent coming due.

“Lien” means any mortgage, deed of trust, pledge, security interest, assignment, judgment, lien or charge of any kind, including, without limitation, any conditional sale or other

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title retention agreement, any lease in the nature thereof, and the filing of, or agreement to give, any financing statement under the Uniform Commercial Code of any jurisdiction.

“Loan Agreement” means the Loan Agreement of even date hereof between the Mortgagor, 1933 Montana Ave., LLC and the Lender, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

“Loan Documents” means this Mortgage, the Note, the Loan Agreement and any and all other documents which the Mortgagor or any other party or parties have executed and delivered, or may hereafter execute and deliver, to evidence, secure or guarantee the Obligations, or any part thereof, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

“Mortgage” means this Mortgage, Assignment, Security Agreement and Fixture Filing executed by the Mortgagor for the benefit of the Mortgagee, as the same may from time to time be extended, amended, restated, supplemented or otherwise modified.

“Mortgagee” means the Lender and its successors and assigns.

“Net Proceeds”, when used with respect to any Condemnation Awards or insurance proceeds allocable to the Property, means the gross proceeds from any Casualty or Condemnation remaining after payment of all expenses (including attorneys’ fees) incurred in the collection of such gross proceeds.

“Notice” means a written communication delivered by hand, or sent by overnight courier, or by certified or registered mail, postage prepaid, return receipt requested, to the Person to whom such communication is to be given, at the following addresses:

Lender: Branch Banking and Trust Company
7220 Wisconsin Ave., 4th Floor
Bethesda, Maryland 20814
Attention: Maria Salter

Mortgagor: c/o 1933 Montana Ave LLC
953 V Street. NE
Washington, DC 20018
Attn: Jerome A. Siegel

or at such other address as any party shall have notified the others of in the manner set forth in this definition.

“Obligations” means all present and future debts, obligations and liabilities of the Mortgagor to the Mortgagee arising pursuant to, and/or on account of, the provisions of this Mortgage, the Note and any of the other Loan Documents, including, without limitation, the obligations to (a) pay all principal (including, again without limitation, any principal advanced after the date of this Mortgage and any principal that is repaid and readvanced), interest, late charges and prepayment premiums (if any) due at any time under the Note, and (b) pay all Expenses, indemnification payments and other sums due at any time under this Mortgage

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together with interest thereon as provided in Section 4.18 (Reimbursement; Interest), and (c) perform, observe and comply with all of the terms, covenants and conditions, expressed or implied, which the Mortgagor is required by this Mortgage and any of the other Loan Documents, to perform, observe or comply with; provided, however, in no event shall Obligations exceed Ten Million Dollars (\$10,000,000).

“Permitted Encumbrances” means (a) the Encumbrances set forth in the Commitment for Title Insurance No. 140108936387D2 issued on January 24, 2014 by Chicago Title Insurance Company as updated to the date of this Mortgage, (b) this Mortgage, (c) any Leases so long as such Leases are subject and subordinate to this Mortgage, and (d) liens for Property Assessments which are either (i) not delinquent, or (ii) being contested in accordance with the provisions of Section 4.19 (Permitted Contests).

“Person” means an individual, a corporation, a partnership, a limited liability company, a joint venture, a trust, an unincorporated association, any Governmental Authority or any other entity.

“Personalty” means all of the Mortgagor’s interest in personal property of any kind or nature whatsoever, whether tangible or intangible and whether now owned or hereafter acquired, which is used in the construction of, or is placed upon, or is derived from or used in connection with the maintenance, use, occupancy or enjoyment of, the Property, including, without limitation, (a) the Equipment, (b) the Accounts, (c) any franchise or license agreements and management agreements entered into with respect to the Property or the business conducted therein (provided all of such agreements shall be subordinate to this Mortgage, and the Mortgagee shall have no responsibility for the performance of the Mortgagor’s obligations thereunder), and (d) all plans and specifications, contracts and subcontracts for the construction or repair of the Improvements, sewer and water taps, allocations and agreements for utilities, bonds, permits, licenses, guarantees, warranties, causes of action, judgments, Claims, profits, security deposits, utility deposits, refunds of fees or deposits paid to any Governmental Authority, letters of credit and policies of insurance; together with all Additions to the Personalty and Proceeds thereof.

“Proceeds”, when used with respect to any of the collateral described in this Mortgage, means all proceeds within the meaning of the Uniform Commercial Code of the State and shall also include the proceeds of any and all insurance policies.

“Property” means the Land, the Improvements and the Personalty, and all Additions to, and Proceeds of, all of the foregoing.

“Property Assessments” means all taxes, payments in lieu of taxes, water rents, sewer rents, assessments, condominium charges, maintenance charges and other governmental or municipal or public or private dues, charges and levies and any Liens (including federal tax liens) which are or may be levied, imposed or assessed upon the Property or any part thereof, or upon any Leases or any Rents, whether levied directly or indirectly or as excise taxes, as income taxes, or otherwise.

“Real Property” means the Land and the Improvements, and all Additions to, and

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Proceeds of, each of the foregoing.

“Reimbursement Rate” means the four percent (4.0%) in excess of the interest rate then in effect under the Note.

“Rents” means all of the rents, royalties, issues, profits, revenues, earnings, income and other benefits of the Property, or arising from the use or enjoyment of the Property, or from any Lease or other use or occupancy agreement pertaining to the Property.

“State” means the State of Illinois.

“Taxes” means all taxes and assessments whether general or special, ordinary or extraordinary, or foreseen or unforeseen, which at any time may be assessed, levied, confirmed or imposed on the Mortgagor or on any of its properties or assets or any part thereof or in respect of any of its franchises, businesses, income or profits.

“Transfer” means any direct or indirect sale, assignment, conveyance or transfer, including, without limitation, any contract or agreement to sell, assign, convey or transfer, whether made with or without consideration.

Section 1.3 Rules of Construction

The words “hereof”, “herein”, “hereunder”, “hereto”, and other words of similar import refer to this Mortgage in its entirety. The terms “agree” and “agreements” mean and include “covenant” and “covenants”. The headings of this Mortgage are for convenience only and shall not define or limit the provisions hereof. All references (a) made in the neuter, masculine or feminine gender shall be deemed to have been made in all such genders, (b) made in the singular or plural number shall be deemed to have been made, respectively, in the plural or singular number as well, (c) to the Land, Improvements, Personalty, Real Property or Property shall mean all or any portion of each of the foregoing, respectively, and (d) to Section numbers are to the respective Sections contained in this Mortgage unless expressly indicated otherwise. Any of the acts mentioned aforesaid may be done without the approval or consent of, or notice to, the Mortgagor. Any term used or defined in the Uniform Commercial Code of the State, as in effect from time to time, which is not defined in this Mortgage has the meaning given to that term in the Uniform Commercial Code of the State, as in effect from time to time, when used in this Mortgage. However, if a term is defined in Article 9 of the Uniform Commercial Code of the State differently than in another Article of the Uniform Commercial Code of the State, the term has the meaning specified in Article 9.

ARTICLE II GRANTING CLAUSES; CONDITION OF GRANT.

In order to secure the prompt payment and performance of the Obligations, the Mortgagor (a) mortgages, grants, assigns, remises, releases, warrants and conveys the Real Property unto the Mortgagee, to have and to hold the Real Property unto the Mortgagee forever; provided that, the Mortgagor may retain possession of the Real Property until the occurrence of an Event of Default; and (b) grants the Mortgagee a lien on, and security interest in, the Personalty; and (c) unconditionally and absolutely assigns the Leases and Rents to the

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Mortgagee (but subject to the license for collection of Rents described in Section 4.13(b) (Leases)); and (d) assigns to, and grants the Mortgagee a security interest in, any Contracts of Sale; and (e) assigns to the Mortgagee all Condemnation Awards and any insurance proceeds payable with respect to any Casualty. If and when the Mortgagor has paid and performed all of the Obligations, and no further advances are to be made under the Loan Agreement, the Mortgagee will provide a release of this Mortgage to the Mortgagor. The Mortgagor shall be responsible for the recordation of such release and payment of any recording costs.

ARTICLE III REPRESENTATIONS AND WARRANTIES.

The Mortgagor makes the following representations and warranties to the Mortgagee:

Section 3.1 Taxes.

The Mortgagor has filed all federal, state, county and municipal Tax returns required to have been filed by the Mortgagor and has paid all Taxes which have become due pursuant to such returns or pursuant to any Tax assessments received by the Mortgagor.

Section 3.2 Legal Actions.

There are no (a) Claims pending or, to the best of the Mortgagor's knowledge and belief, threatened, against or affecting the Mortgagor, the Mortgagor's business or the Property, or (b) investigations at law or in equity, before or by any court or Governmental Authority, pending or, to the best of the Mortgagor's knowledge and belief, threatened, against or affecting the Mortgagor, the Mortgagor's business or the Property. The Mortgagor is not in default with respect to any order, writ, injunction, decree or demand of any court or any Governmental Authority affecting the Mortgagor or the Property.

Section 3.3 Nature of Loan; Usury; Disclosures.

The Mortgagor is a business or commercial organization, and the Loan is being made solely for the purpose of carrying on or acquiring a business or commercial enterprise. The rate of interest charged on the Loan does not, and will not, violate any usury Law or interest rate limitation. The Loans are not subject to the federal Consumer Credit Protection Act (15 U.S.C. §1601 et. seq.) nor any other federal or state disclosure or consumer protection laws.

Section 3.4 Trade Names.

The Mortgagor conducts its business solely under the name set forth in the Preamble to this Mortgage and makes use of no trade names in connection therewith, unless such trade names have been previously disclosed to the Mortgagee in writing.

Section 3.5 Warranty of Title.

The Mortgagor is (a) the owner of the fee simple legal title to the Real Property, (b) except for the Permitted Encumbrances, the owner of all of the beneficial and/or equitable interest in and to the Real Property, and (c) lawfully seized and possessed of the Real Property. The Mortgagor has the right and authority to convey the Real Property and does hereby warrant specially, and agrees to defend, the Real Property and the title thereto, whether now owned or

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hereafter acquired, against all Claims by any Person claiming by, through, or under the Mortgagor. The Real Property is subject to no Encumbrances other than the Permitted Encumbrances.

Section 3.6 Property Assessments.

The Real Property is assessed for purposes of Property Assessments as a separate and distinct parcel from any other property, such that the Real Property shall never become subject to the Lien of any Property Assessments levied or assessed against any property other than the Real Property.

Section 3.7 Independence of the Real Property.

No building or other improvements on property not covered by this Mortgage rely on the Real Property or any interest therein to fulfill any requirement of any Governmental Authority for the existence of such property, building or improvements; and none of the Real Property relies, or will rely, on any property not covered by this Mortgage or any interest therein to fulfill any requirement of any Governmental Authority. The Real Property has been properly subdivided from all other property in accordance with the requirements of any applicable Governmental Authorities.

Section 3.8 Existing Improvements.

The existing Improvements, if any, were constructed, and are being maintained, in accordance with all applicable Laws, including, without limitation, zoning Laws.

Section 3.9 Personalty.

The Mortgagor has good title to the Equipment, and the Personalty is not subject to any Encumbrance other than the Permitted Encumbrances.

Section 3.10 Leases, Rents, Contracts of Sale.

The Leases, Rents and Contracts of Sale are not subject to any Encumbrance other than the Permitted Encumbrances.

Section 3.11 Presence of Hazardous Materials or Contamination; Compliance With Environmental Requirements.

To the best of the Mortgagor's knowledge and belief, (a) no Hazardous Materials are currently located on the Property, nor is the Property affected by any Hazardous Materials Contamination, (b) the Property has never been used as a manufacturing, storage, treatment, processing, recycling or disposal site for Hazardous Materials, and (c) no property in the vicinity of the Real Property has ever been used as a manufacturing, storage, treatment, processing, recycling or disposal site for Hazardous Materials, nor is any such property affected by Hazardous Materials Contamination. The present condition and uses of, and activities on, the Property do not violate any Environmental Requirement and the uses of the Property which the Mortgagor and each tenant and subtenant, if any, intend in the future to make of the Property comply and will comply with all applicable Environmental Requirements. Neither the Mortgagor, nor to the Mortgagor's knowledge, any tenant or subtenant, has obtained or is required to obtain any permit or other authorization to construct, occupy, operate, use or conduct

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any activity on, the Property by reason of any Environmental Requirement. The Mortgagor has received no notice, and is not aware, of any Claim involving a violation of any Environment Requirement with respect to the Property or any parcel in the vicinity of the Real Property or any operation conducted on the Property or on any parcel in the vicinity of the Real Property. There is no Environmental Requirement which requires any work, repair, construction, capital expenditure, or other remedial work of any nature whatsoever to be undertaken with respect to the Property.

ARTICLE IV AFFIRMATIVE COVENANTS.

Section 4.1 Obligations.

The Mortgagor agrees to promptly pay and/or perform all of the Obligations, time being of the essence in each case.

Section 4.2 Insurance.

The Mortgagor shall maintain the following insurance at its sole cost and expense:

(a) Insurance against Casualty to the Property under a policy or policies covering such risks as are ordinarily insured against by similar businesses, but in any event including fire, lightning, windstorm, hail, explosion, riot, riot attending a strike, civil commotion, damage from aircraft, smoke, vandalism, malicious mischief and acts of terrorism. Unless otherwise agreed in writing by the Mortgagee, such insurance shall be for the greater of (i) the full insurable value of the Property, or (ii) the full principal amount of the Loans. The deductible amount under such policy or policies shall not exceed \$5,000. No policy of insurance shall be written such that the proceeds thereof will produce less than the minimum coverage required by this Section by reason of co-insurance provisions or otherwise. The term "full insurable value" means the actual replacement cost of the Property (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items). The "full insurable value" shall be determined from time to time at the request of the Mortgagee (but not more frequently than once every three (3) years) by an appraiser or appraisal company or one of the insurers, who shall be selected and paid for by the Mortgagor but subject to the Mortgagee's approval.

(b) Comprehensive general public liability insurance for injuries to Persons and damage to property, in limits of not less than \$1,000,000 for any one occurrence and \$3,000,000 for the aggregate of all occurrences during any given annual policy period. Such insurance shall name the Mortgagee as an additional insured.

(c) Workers' compensation insurance for all employees of the Mortgagor in such amount as is required by Law.

(d) During any period of construction upon the Property, the Mortgagor shall maintain, or cause others to maintain, builder's risk insurance (non-reporting form) of the type customarily carried in the case of similar construction for the full replacement cost of work in place and materials stored at or upon the Property.

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(e) If at any time the Property is in an area that has been identified as having special flood and mudslide hazards, and flood insurance is available in such area, the Mortgagor shall purchase and maintain a flood insurance policy in form and amount acceptable to the Mortgagee. In the event that the Property is not in an area having special flood and mudslide hazards, the Mortgagor shall deliver to the Mortgagee upon request evidence satisfactory to the Mortgagee stating that the Property is not in such a flood or mudslide hazard area.

(f) The Mortgagor will obtain and keep in force such other and further insurance as may be required from time to time by the Mortgagee in order to comply with regular requirements and practices of the Mortgagee in similar transactions.

Each policy of insurance shall (i) be issued by one or more insurance companies each of which must have an A.M. Best Company financial and performance rating of A-IX or better and are qualified or authorized by the Laws of the State to assume the risks covered by such policy, (ii) with respect to the insurance described under the preceding subsections (a), (d), and (e), have attached thereto standard non-contributing, non-reporting mortgagee clauses in favor of and entitling the Mortgagee without contribution to collect any and all proceeds payable under such insurance, (iii) provide that such policy shall not be cancelled or modified without at least thirty (30) days prior written notice to the Mortgagee, and (iv) provide that any loss otherwise payable thereunder shall be payable notwithstanding any act or negligence of the Mortgagor which might, absent such agreement, result in a forfeiture of all or a part of such insurance payment. The Mortgagor shall promptly pay all premiums when due on such insurance and, not less than thirty (30) days prior to the expiration dates of each such policy, the Mortgagor will deliver to the Mortgagee a renewal policy or policies marked "premium paid" or accompanied by other evidence of payment satisfactory to the Mortgagee. The Mortgagor will immediately give the Mortgagee Notice of any cancellation of, or change in, any insurance policy. The Mortgagee shall not, because of accepting, rejecting, approving or obtaining insurance, incur any liability for (i) the existence, nonexistence, form or legal sufficiency thereof, (ii) the solvency of any insurer, or (iii) the payment of losses.

Section 4.3 Adjustment of Condemnation and Insurance Claims.

The Mortgagor shall give prompt Notice to the Mortgagee of any Casualty or any Condemnation or threatened Condemnation. The Mortgagee is authorized, at its sole option, to commence, appear in and prosecute, in its own or the Mortgagor's name, any action or proceeding relating to any Condemnation or Casualty, and to settle or compromise any Claim in connection therewith. In such case, the Mortgagee may also deduct from any payment all of its Expenses. The Mortgagee agrees, however, that, so long as no Event of Default has occurred, it will not settle or compromise any such Claim without the prior written consent of the Mortgagor, which consent shall not be unreasonably withheld or delayed. If the Mortgagee elects not to adjust a Claim, the Mortgagor agrees to promptly pursue the settlement and compromise of the Claim subject to the Mortgagee's approval that will not be unreasonably withheld or delayed. If, prior to the receipt by the Mortgagee of any Condemnation Award or insurance proceeds, the Property shall have been sold pursuant to the provisions of Section 7.2 (Foreclosure), the Mortgagee shall have the right to receive such funds to the extent of (a) any deficiency found to be due upon such sale with interest thereon (whether or not a deficiency judgment on this Mortgage shall have been sought or recovered or denied), and (b) necessary to reimburse the

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Mortgagee for its Expenses. The Mortgagor agrees to execute and deliver from time to time, upon the request of the Mortgagee, such further instruments or documents as may be requested by the Mortgagee to confirm the grant and assignment to the Mortgagee of any Condemnation Awards or insurance proceeds.

Section 4.4 Application of Net Proceeds.

Net Proceeds must be applied to either the payment of the Obligations, or the restoration of the Property. The Mortgagee shall determine, in its sole discretion, the manner in which Net Proceeds are to be applied.

Section 4.5 Compliance with Laws.

The Mortgagor will comply with and not violate, and cause to be complied with and not violated, all present and future Laws applicable to the Property and its use and operation.

Section 4.6 Maintenance and Repair of the Property.

The Mortgagor, at the Mortgagor's sole expense, will (a) keep and maintain the Improvements and the Equipment in good condition, working order and repair, and (b) make all necessary or appropriate repairs and Additions to the Improvements and Equipment, so that each part of the Improvements and all of the Equipment shall at all times be in good condition and fit and proper for the respective purposes for which they were originally intended, erected, or installed.

Section 4.7 Additions to Security.

All right, title and interest of the Mortgagor in and to all Improvements and Additions hereafter constructed or placed on the Property and in and to any Equipment hereafter acquired shall, without any further mortgage, conveyance, assignment or other act by the Mortgagor, become subject to the Lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Mortgagor and specifically described in the granting clauses hereof. The Mortgagor agrees, however, to execute and deliver to the Mortgagee such further documents as may be required pursuant to Section 8.2 (Further Assurances).

Section 4.8 Inspection.

The Mortgagor will permit the Mortgagee, or any Person authorized by the Mortgagee, to enter and make inspections of the Property at all reasonable times and as often as may be requested by the Mortgagee.

Section 4.9 Management.

The Mortgagor at all times shall provide for the competent and responsible management and operation of the Property. Any management contract or contracts affecting the Property must be approved in writing by the Mortgagee prior to the execution of the same.

Section 4.10 Books and Records.

The Mortgagor will keep and maintain full and accurate records and books administered in accordance with generally accepted accounting principles, consistently applied, showing in

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detail the earnings and expenses of the Property and the operation thereof. The Mortgagor shall permit the Mortgagee, or any Person authorized by the Mortgagee, to inspect and examine such records and books (regardless of where maintained) and all supporting vouchers and data and to make copies and extracts therefrom at all reasonable times and as often as may be requested by the Mortgagee.

Section 4.11 Estoppel Certificates.

Within ten (10) days after any request by the Mortgagee or a proposed assignee or purchaser of the Loans, or any of them, the Mortgagor shall certify in writing to the Mortgagee, or to such proposed assignee or purchaser, the then unpaid balance of the Loans and whether the Mortgagor has any right of defense or setoff to the payment or performance of any of the Obligations.

Section 4.12 Subrogation.

To the extent permitted by Law, the Mortgagee shall be subrogated, notwithstanding its release of record, to any Lien now or hereafter existing on the Property to the extent that such Lien is paid or discharged by the Mortgagee whether or not from the proceeds of the Loans. This Section shall not be deemed or construed, however, to obligate the Mortgagee to pay or discharge any Lien.

Section 4.13 Leases.

(a) The Mortgagee shall have the right to approve any Lease executed after the date of this Mortgage as to form, content and financial strength of the tenant. All such Leases shall, at the Mortgagee's option, include subordination provisions acceptable to the Mortgagee in its commercially reasonable discretion. At any time, within thirty (30) days after Notice from the Mortgagee, the Mortgagor will deliver to the Mortgagee a written description in such reasonable detail as the Mortgagee may request of all of the Leases, including, without limitation, the names of all tenants, the terms of all Leases and the Rents payable under all Leases, and, on demand, the Mortgagor will furnish to the Mortgagee fully executed copies of any Leases and such subordination and attornment agreements as the Mortgagee may request. If any Lease provides for the giving by the tenant of certificates with respect to the status of such Lease, the Mortgagor shall exercise its right to require such certificate within ten (10) days after any request by the Mortgagee. If a Default or Event of Default has occurred or is continuing, the Mortgagor will notify all tenants under existing Leases, and agrees to thereafter notify all tenants under future Leases, that (i) the Mortgagor collects and receives all Rents pursuant to the license granted to it hereunder, and (ii) upon Notice from the Mortgagee that such license has been revoked, the tenant shall pay all unpaid Rent directly to the Mortgagee.

(b) So long as no Event of Default has occurred, the Mortgagor shall have a license (which license shall terminate automatically and without Notice upon the occurrence of an Event of Default) to collect upon, but not prior to accrual, the Rents under the Leases and, where applicable, subleases, such Rents to be held in trust for the Mortgagee. Each month, provided no Event of Default has occurred, the Mortgagor may retain such Rents as were collected that month and held in trust for the Mortgagee. Upon revocation of such license and following notification to the tenants under the Leases by the Mortgagee that Rents are to be paid to the Mortgagee, all Rents shall be paid directly to the Mortgagee and not through the

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Mortgagor. A demand by the Mortgagee on any tenant for the payment of Rent shall be sufficient to warrant such tenant to make future payments of Rent to the Mortgagee without the necessity of further consent by the Mortgagor.

(c) The Mortgagor, at its sole cost and expense, will use its best efforts to enforce or secure, or cause to be enforced or secured, the performance of each and every obligation and undertaking of the respective tenants under any Leases and will appear in and defend, at its sole cost and expense, any action or proceeding arising under, or in any manner connected with, such Leases.

(d) The Mortgagor will not assign the whole or any part of the Leases or Rents without the prior written consent of the Mortgagee, and any assignment without such consent shall be null and void.

(e) The Mortgagor will promptly perform all of its obligations under any Leases. The Mortgagor will not, without the prior written consent of the Mortgagee, (i) cancel, terminate, accept a surrender of, reduce the payment of rent under, or accept any prepayment of rent for more than one (1) month in advance under, any Lease, or (ii) permit a Lien on the Property superior to any Lease, other than this Mortgage.

(f) If any Leases are subordinate (either by their date, their express terms, or by subsequent agreement of the tenant) to this Mortgage, such Leases shall be subject to the condition (and this Mortgage so authorizes) that, in the event of any sale of the Property pursuant to the provisions of Section 7.2 (Foreclosure), the Leases shall, at the sole option of the Mortgagee or any purchaser at such sale, either (i) continue in full force and effect as set forth in the required advertisement of sale, and the tenant or tenants thereunder will, upon request, attorn to and acknowledge in writing the purchaser or purchasers at such sale or sales as landlord thereunder, or (ii) upon notice to such effect from the Mortgagee or any purchaser or purchasers, terminate within ninety (90) days from the date of sale. As to any Lease, neither the Mortgagee nor any purchaser or purchasers at foreclosure shall be bound by any payment of rent for more than one (1) month in advance or by any amendment or modification of the Lease made without the prior written consent of the Mortgagee or, subsequent to a foreclosure sale, such purchaser or purchasers.

(g) The Mortgagee shall not be obligated to perform or discharge any obligation of the Mortgagor under any Lease. This assignment of the Leases in no manner places on the Mortgagee any responsibility for (i) the control, care, management or repair of the Property, (ii) the carrying out of any of the terms and conditions of the Leases, (iii) any waste committed on the Property, or (iv) any dangerous or defective condition on the Property (whether known or unknown). The Mortgagor agrees to indemnify the Mortgagee for, and forever hold it harmless from, any and all Claims arising out of, or in connection with, any Leases or any assignment thereof.

Section 4.14 Contracts of Sale.

Following the occurrence of an Event of Default, the Mortgagor irrevocably authorizes the Mortgagee, at its sole option, to collect, in the name of the Mortgagor or in its own name as assignee, all payments due or to become due under any Contract of Sale. The Mortgagor agrees

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that it will facilitate in every reasonable way the collection by the Mortgagee of such payments, and will, upon written request by the Mortgagee, execute a written notice and deliver the same to each purchaser directing the purchaser to make such payments to the Mortgagee. In no event shall the Mortgagee be accountable for more moneys than it actually receives pursuant to a Contract of Sale, nor shall the Mortgagee be liable for any failure to collect payments under any Contract of Sale. The right to determine the method of collection and the extent to which the enforcement of collection shall be prosecuted is reserved to the sole discretion of the Mortgagee. The Mortgagor, without the prior written consent of the Mortgagee, will not execute any assignment of any Contract of Sale or the payments due thereunder. The Mortgagor shall furnish to the Mortgagee, within ten (10) days after a written request from the Mortgagee, a written certification containing the names of all contract purchasers of the Property and shall attach to such certification a copy of any Contract of Sale. Nothing contained in this Section shall (a) be construed as a consent by the Mortgagee to any Transfer of the Property, or (b) constitute a delegation to the Mortgagee of any of the Mortgagor's duties or obligations under any Contract of Sale. The Mortgagor agrees to indemnify the Mortgagee for, and forever hold it harmless from, any Claim arising out of, or in connection with, any Contract of Sale.

Section 4.15 Taxes.

The Mortgagor shall pay and discharge all Taxes prior to the date on which penalties are attached thereto unless and to the extent only that such Taxes are contested in accordance with Section 4.19 (Permitted Contests).

Section 4.16 Hazardous Materials; Contamination.

(a) The Mortgagor agrees to (i) give Notice to the Mortgagee immediately upon the Mortgagor's acquiring knowledge of the presence of any Hazardous Materials on the Property or of any Hazardous Materials Contamination or of any Claim made or threatened against the Mortgagor or the Property with respect to any Environmental Requirement with a full description thereof; (ii) at the Mortgagor's sole cost and expense, promptly comply with any and all Environmental Requirements relating to the Property or such Hazardous Materials or Hazardous Materials Contamination and provide the Mortgagee with satisfactory evidence of such compliance; (iii) provide the Mortgagee, within thirty (30) days after a demand by the Mortgagee, with a bond, letter of credit or similar financial assurance evidencing to the Mortgagee's satisfaction that the necessary funds are available to pay the cost of complying with such Environmental Requirements and removing, treating and disposing of such Hazardous Materials or Hazardous Materials Contamination and discharging any Lien which may be established on the Property as a result thereof; and (iv) take whatever other action as the Mortgagee may deem necessary or appropriate to restore to the Mortgagor the full use and benefit of the Property as contemplated by the Loan Documents.

(b) The Mortgagor shall immediately upon the receipt of Notice from the Mortgagee, which may be given at any time and from time to time by the Mortgagee in its sole discretion (but not more frequently than once during any twelve (12) month period), cause an Environmental Assessment to be undertaken with respect to the Property and furnish the same to the Mortgagee within thirty (30) days after the date of the Mortgagee's request. The cost of any such Environmental Assessment shall be borne exclusively by the Mortgagor. The Mortgagor shall cooperate with each environmental consulting firm engaged to make any such

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Environmental Assessment and shall supply to each such environmental consulting firm, from time to time and promptly on request, all information available to the Mortgagor to facilitate the completion of the Environmental Assessment. Notwithstanding the foregoing, the Mortgagee shall be under no duty to require the preparation of any Environmental Assessment of the Property, and in no event shall any such Environmental Assessment by the Mortgagee be or give rise to any representation or warranty by the Mortgagee that Hazardous Materials are or are not present on the Property, or that there has been compliance by the Mortgagor or any other Person with any Environmental Requirement.

(c) The Mortgagor shall protect, indemnify, defend and hold the Mortgagee, any Persons owned or controlled by, owning or controlling, or under the common control of or affiliated with, the Mortgagee, any participants in the Loans, the directors, officers, employees and agents of the Mortgagee, and/or such other Persons, and the heirs, personal representatives, successors and assigns of each of the foregoing, harmless from and against any and all Claims of any kind or nature whatsoever arising out of or in any way connected with any investigative, enforcement, cleanup, removal, containment, remedial or other private, governmental or regulatory action at any time threatened, instituted or completed pursuant to any applicable Environmental Requirement against the Mortgagor or the Mortgagee or against or with respect to the Property or any condition, use or activity on the Property or at any time threatened or made by any Person against the Mortgagor or the Mortgagee or against or with respect to the Property or any condition, use or activity on the Property relating to any damage, contribution, cost recovery, compensation, loss or injury resulting from or in any way arising in connection with any Hazardous Materials or Hazardous Materials Contamination. Upon demand by the Mortgagee, the Mortgagor shall diligently defend any such Claim which affects the Property or is made or commenced against the Mortgagee, whether alone or together with the Mortgagor or any other Person, all at the Mortgagor's sole cost and expense and by counsel to be approved by the Mortgagee in the exercise of its reasonable judgment. In the alternative, the Mortgagee may at any time elect to conduct its own defense through counsel selected by the Mortgagee and at the cost and expense of the Mortgagor.

Section 4.17 Right to Perform.

If the Mortgagor fails to promptly pay or perform any of the Obligations, the Mortgagee, without Notice to or demand upon the Mortgagor, and without waiving or releasing any Obligation or Default, may (but shall be under no obligation to) at any time thereafter make such payment or perform such act for the account and at the expense of the Mortgagor. The Mortgagee may enter upon the Property for that purpose and take all action thereon as the Mortgagee considers necessary or appropriate. All Expenses incurred by the Mortgagee pursuant to this Section, together with interest thereon at the Reimbursement Rate, shall be paid by the Mortgagor to the Mortgagee as provided in Section 4.18 (Reimbursement; Interest).

Section 4.18 Reimbursement; Interest.

If the Mortgagee shall incur any Expenses or pay any Claims to which the Mortgagee become a party by reason of this Mortgage or the rights and remedies provided hereunder (regardless of whether this Mortgage expressly provides for an indemnification against such Claims by the Mortgagor), such Expenses and Claims shall be (a) paid by the Mortgagor to the Mortgagee on demand, together with interest thereon from the date incurred until paid in full by

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the Mortgagor at the Reimbursement Rate, and (b) a part of the Obligations secured by this Mortgage. Notwithstanding the foregoing, however, in any action or proceeding to foreclose this Mortgage or to recover or collect the Obligations, the provisions of Law governing the recovery of costs, disbursements and allowances shall prevail unaffected by this Section. Whenever this Mortgage provides for interest to be paid at the Reimbursement Rate, the Reimbursement Rate shall be calculated on the basis of a 360-day year factor applied to actual days elapsed and adjusted simultaneously with any change in the Mortgagee's prime rate of interest.

Section 4.19 Permitted Contests.

The Mortgagor shall not be required to pay any of the Property Assessments, or to comply with any Law, so long as the Mortgagor shall in good faith, and at its cost and expense, contest the amount or validity thereof, or take other appropriate action with respect thereto, in good faith and in an appropriate manner or by appropriate proceedings; provided that (a) such proceedings operate to prevent the collection of, or other realization upon, such Property Assessments or enforcement of the Law so contested, (b) there will be no sale, forfeiture or loss of the Property during the contest, (c) the Mortgagee is not subjected to any Claim, and (d) the Mortgagor provides assurances satisfactory to the Mortgagee (including, without limitation, the establishment of an appropriate reserve account with the Mortgagee) of its ability to pay such Property Assessments or comply with such Law in the event the Mortgagor is unsuccessful in its contest. Each such contest shall be promptly prosecuted to final conclusion or settlement, and the Mortgagor shall indemnify and save the Mortgagee harmless against all Claims in connection therewith. Promptly after the settlement or conclusion of such contest or action, the Mortgagor shall comply with such Law and/or pay and discharge the amounts which shall be levied, assessed or imposed or determined to be payable, together with all penalties, fines, interests, costs and expenses in connection therewith.

Section 4.20 Security Agreement and Fixture Filing.

This Mortgage creates a security interest in the Personalty, and, to the extent the Personalty is not real property, this Mortgage constitutes a security agreement from the Mortgagor to the Mortgagee under the Uniform Commercial Code of the State. This Mortgage constitutes a fixture filing under the Uniform Commercial Code of the State, as amended or recodified from time to time, and covers property which includes goods that are or are to become fixtures on the Property. "Fixtures" shall include all articles of personal property now or hereafter attached to, placed upon for an indefinite term or used in connection with said real property, appurtenances and improvements, together with all goods and other property which are or at any time become so related to the Property that an interest in them arises under real estate law. The respective mailing addresses of Mortgagor and Mortgagee are set forth in the definition of "Notices" in Section 1.2 (Definitions).

The Mortgagor hereby authorizes Mortgagee at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, required by Mortgagee to establish or maintain the validity, perfection and priority of the security interest granted in this Mortgage. For purposes of such filings, Mortgagor agrees to furnish any information requested by Mortgagee promptly upon request by Mortgagee. Mortgagor also ratifies its authorization for Mortgagee to have filed any like initial financing statements, amendment thereto or continuation statements if filed prior to the date of this

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Mortgage.

Mortgagor shall pay all fees and costs that Mortgagee may incur in filing this or any other documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall never be construed as in any way derogating from or impairing this Mortgage or the rights or obligations of the parties under it. The Mortgagor hereby agrees to execute and deliver on demand, and hereby irrevocably constitutes and appoints the Mortgagee the attorney-in-fact of the Mortgagor, to execute, deliver and, if appropriate, to file with the appropriate filing office or offices, such financing statements or other instruments as the Mortgagee may request or require in order to perfect the security interest granted hereby or to continue the effectiveness of the same.

ARTICLE V NEGATIVE COVENANTS.

Section 5.1 Encumbrances.

Without the prior written consent of the Mortgagee, the Mortgagor will not permit the Real Property or the Personalty, or the Leases, Rents and Contracts of Sale, to become subject to any Encumbrances other than the Permitted Encumbrances. The Mortgagor shall give the Mortgagee Notice of any default under any Lien and Notice of any foreclosure or threat of foreclosure.

Section 5.2 Transfer of the Property.

The Mortgagor will not Transfer, or contract to Transfer, all or any part of the Property or any legal or beneficial interest therein (except for Transfers of the Equipment permitted by Section 5.3 (Removal of Equipment)).

Section 5.3 Removal, etc. of Equipment and Improvements.

Except to the extent permitted by the following sentence, none of the Improvements or Equipment shall be removed, demolished or materially altered, without the prior written consent of the Mortgagee. The Mortgagor may remove and dispose of, free from the Lien of this Mortgage, such Equipment as from time to time becomes worn out or obsolete, provided that, either (a) at the time of, or prior to, such removal, any such Equipment is replaced with other Equipment which is free from Liens other than Permitted Encumbrances and has a value at least equal to that of the replaced Equipment (and by such removal and replacement the Mortgagor shall be deemed to have subjected such Equipment to the Lien of this Mortgage), or (b) so long as a prepayment may be made without penalty pursuant to the Notes, such Equipment is sold at fair market value for cash and the net cash proceeds received from such disposition are paid over promptly to the Mortgagee to be applied to the prepayment of the principal of the Loans.

Section 5.4 Additional Improvements.

The Mortgagor will not construct any Improvements other than those presently on the Land without the prior written consent of the Mortgagee. The Mortgagor will complete and pay for, within a reasonable time, any Improvements which the Mortgagor is permitted to construct

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on the Land. The Mortgagor will construct and erect any permitted Improvements (a) strictly in accordance with all applicable Laws and any private restrictive covenants, (b) entirely on lots or parcels of the Land, (c) so as not to encroach upon any easement or right of way or upon the land of others, and (d) wholly within any building restriction lines applicable to the Land.

Section 5.5 Restrictive Covenants, Zoning, etc.

Without the prior written consent of the Mortgagee, the Mortgagor will not initiate, join in, or consent to any change in, any restrictive covenant, easement, zoning ordinance, or other public or private restrictions, limiting or defining the uses which may be made of the Property. The Mortgagor will (a) promptly perform and observe, and cause to be performed and observed, all of the terms and conditions of all agreements affecting the Property, and (b) do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of, or constituting any portion of, the Property.

Section 5.6 Prohibition on Hazardous Materials.

The Mortgagor will not cause, commit, permit or allow to continue any violation of any Environmental Requirement by any Person on or with respect to the Property. The Mortgagor will not place, install, store, spill, leak, dispose of or release, or cause, commit, permit, or allow the placement, installation, storage, spilling, leaking, disposal or release of, any Hazardous Materials on the Property and will keep the Property free of all Hazardous Materials Contamination.

ARTICLE VI EVENTS OF DEFAULT.

The occurrence of any one or more of the following shall constitute an "Event of Default" under this Mortgage:

Section 6.1 Payment Obligations.

The Mortgagor fails to promptly pay any of the Obligations when and as due and payable.

Section 6.2 Transfer of the Property; Encumbrances.

The Mortgagor fails to comply with Section 5.1 (Encumbrances) or Section 5.2 (Transfer of the Property).

Section 6.3 Insurance Obligations.

The Mortgagor fails to promptly perform or comply with any of the terms and conditions set forth in Section 4.2 (Foreclosure).

Section 6.4 Hazardous Materials.

The Mortgagor fails to promptly perform or comply with any of the terms and conditions set forth in Section 4.16 (Hazardous Materials) or Section 5.6 (Restrictions on Hazardous Materials).

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Section 6.5 Other Obligations

The Mortgagor fails to promptly perform or comply with any of the Obligations (other than those expressly described in the other Sections of this ARTICLE VI), and such failure continues uncured for a period of thirty (30) days after Notice from the Mortgagee to the Mortgagor.

Section 6.6 Event of Default Under Other Loan Documents.

An Event of Default (as defined therein) occurs under any of the Loan Documents other than this Mortgage.

Section 6.7 Change in Zoning or Public Restriction.

Any change in any zoning ordinance or regulation or any other public restriction is enacted, adopted or implemented, that limits or defines the uses which may be made of the Property such that the present or intended use of the Property, as specified in the Loan Documents, would be in violation of such zoning ordinance or regulation or public restriction, as changed.

Section 6.8 Default Under Other Lien Documents.

A default occurs under any other mortgage, deed of trust or security agreement covering all or any portion of the Property, including, without limitation, any Permitted Encumbrances.

Section 6.9 Execution; Attachment.

Any execution or attachment is levied against the Property, and such execution or attachment is not set aside, discharged or stayed within thirty (30) days after the same is levied.

ARTICLE VII RIGHTS AND REMEDIES.

Upon the occurrence of any Event of Default, the Mortgagee may at any time thereafter exercise any of the following rights, powers or remedies:

Section 7.1 Acceleration.

The Mortgagee may declare (without Notice to the Mortgagor and without presentment, demand, protest or notice of protest or of dishonor, all of which the Mortgagor hereby waives) the Obligations to be immediately due and payable.

Section 7.2 Foreclosure.

(a) When all or any part of the Obligations shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Obligations or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents. It is further agreed that if default be made in the payment of any part of the Obligations, as an alternative to the right of foreclosure for the full Obligations after acceleration thereof, Mortgagee shall have the right to institute partial foreclosure proceedings with respect to the portion of said Obligations so in default, as if under a full

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foreclosure, and without declaring the entire Obligations due (such proceeding being hereinafter referred to as a "partial foreclosure"), and provided that if foreclosure sale is made because of default of a part of the Obligations, such sale may be made subject to the continuing lien of this Mortgage for the unmatured part of the Obligations. It is further agreed that such sale pursuant to a partial foreclosure shall not in any manner affect the unmatured part of the Obligations, but as to such unmatured part, the lien hereof shall remain in full force and effect just as though no foreclosure sale had been made under the provisions of this paragraph (a). Notwithstanding the filing of any partial foreclosure or entry of a decree of sale in connection therewith, Mortgagee may elect at any time prior to a foreclosure sale pursuant to such decree to discontinue such partial foreclosure and to accelerate the entire Obligations by reason of any uncured Event of Default upon which such partial foreclosure was predicated or by reason of any other Event of Default and proceed with full foreclosure proceedings. It is further agreed that several foreclosure sales may be made pursuant to partial foreclosures without exhausting the right of full or partial foreclosure sale for any unmatured part of the Obligations. In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

(b) In any suit to foreclose or partially foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Real Property. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor's obligations hereunder, the protection of said Real Property and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Real Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate and shall be secured by this Mortgage.

(c) The proceeds of any foreclosure (or partial foreclosure) sale of the Real Property shall be distributed and applied in the following order of priority: first, to all costs and expenses incident to the foreclosure proceedings, including all such items as are mentioned in paragraph (b) above; second, to all other items which may under the terms hereof constitute secured indebtedness additional to the Obligations, with interest thereon as provided herein or in the other Loan Documents; third, to all principal and interest remaining unpaid on Obligations; and fourth, any surplus to Mortgagor, its successors or assigns, as their rights may appear or to any other party legally entitled thereto.

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Section 7.3 Taking Possession or Control of the Property.

As a matter of right without regard to the adequacy of the security, and to the extent permitted by law without Notice to the Mortgagor, the Mortgagee shall be entitled, upon application to a court of competent jurisdiction, to the immediate appointment of a receiver for all or any part of the Property and the Rents, whether such receivership be incidental to a proposed sale of the Property or otherwise, and the Mortgagor hereby consents to the appointment of such a receiver. In addition, to the extent permitted by Law, and with or without the appointment of a receiver, or an application therefor, the Mortgagee may (a) enter upon, and take possession of (and the Mortgagor shall surrender actual possession of), the Property or any part thereof, without Notice to the Mortgagor and without bringing any legal action or proceeding, or, if necessary by force, legal proceedings, ejectment or otherwise, and (b) remove and exclude the Mortgagor and its agents and employees therefrom.

Section 7.4 Management of the Property.

Upon obtaining possession of the Property or upon the appointment of a receiver as described in Section 7.2(a) (Foreclosure), the Mortgagee or the receiver, as the case may be, may, at its sole option, (a) make all necessary or proper repairs and Additions to or upon the Property, (b) operate, maintain, control, make secure and preserve the Property, (c) receive all Rents, and (d) complete the construction of any unfinished Improvements on the Property and, in connection therewith, continue any and all outstanding contracts for the erection and completion of such Improvements and make and enter into any further contracts which may be necessary, either in their or its own name or in the name of the Mortgagor (the cost of completing the Improvements shall be Expenses secured by this Mortgage and accrue interest as set forth in Section 4.18 (Reimbursement; Interest)). In so doing, the Mortgagee or such receiver shall have the right to manage the Property and to carry on the business of the Mortgagor and may exercise all of the rights and powers of the Mortgagor, either in the name of the Mortgagor, or otherwise, including, but without limiting the generality of the foregoing, the right to lease the Property, to cancel, modify, renew or extend any Lease or sub-lease of the Property and to carry on any contracts entered into by the Mortgagor with respect to the Property. The Mortgagee or such receiver shall be under no liability for, or by reason of, any such taking of possession, entry, holding, removal, maintaining, operation or management, except for gross negligence or willful misconduct. Any Rents received shall be applied (a) first, to pay all Expenses, and (b) the balance, if any, to payment of the other Obligations. The Mortgagor shall pay on demand to the Mortgagee or the receiver (as the case may be) the amount of any deficiency between (a) the Rents received by the Mortgagee or the receiver, and (b) all Expenses incurred together with interest thereon at the Reimbursement Rate as provided in Section 4.18 (Reimbursement; Interest). The exercise of the remedies provided in this Section shall not cure or waive any Event of Default, and the enforcement of such remedies, once commenced, shall continue for so long as the Mortgagee shall elect, notwithstanding the fact that the exercise of such remedies may have, for a time, cured the original Event of Default.

Section 7.5 Uniform Commercial Code.

The Mortgagee may proceed under the Uniform Commercial Code of the State as to all or any part of the Personalty, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code of the State.

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Upon the occurrence of any Event of Default, the Mortgagor shall assemble all of the Equipment and make the same available within the Improvements. Any notification required by the Uniform Commercial Code of the State shall be deemed reasonably and properly given if sent in accordance with the Notice provision of this Mortgage at least ten (10) days before any sale or other disposition of the Personalty. Disposition of the Personalty shall be deemed commercially reasonable if made pursuant to a public sale advertised at least twice in a newspaper of general circulation in the community where the Property is located and in a newspaper of general circulation in the municipality in the State that has the largest population. Proceeds from any such sale shall be applied as follows: (a) first, to pay all Expenses incurred in connection with the sale, and (b) the balance, if any, to payment of the other Obligations.

Section 7.6 Other Remedies.

The Mortgagee shall have the right from time to time to enforce any legal or equitable remedy against the Mortgagor and to sue the Mortgagor for any sums (whether interest, damages for failure to pay principal or any installments thereof, taxes, or any other sums required to be paid under the terms of this Mortgage, as the same become due), without regard to whether or not any other of the Obligations shall be due, and without prejudice to the right of the Mortgagee thereafter to enforce any appropriate remedy against the Mortgagor, including, without limitation, an action of foreclosure or an action for specific performance, for a Default by the Mortgagor existing at the time such earlier action was commenced.

Section 7.7 Remedies, etc. Cumulative.

Each right, power and remedy of the Mortgagee as provided for in this Mortgage, or in any of the other Loan Documents or now or hereafter existing by Law, shall be cumulative and concurrent and shall be in addition to every other right, power or remedy provided for in this Mortgage, or in any of the other Loan Documents or now or hereafter existing by Law, and the exercise or beginning of the exercise by the Mortgagee of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by the Mortgagee of any or all such other rights, powers or remedies.

Section 7.8 No Waiver by Mortgagee, etc.

No course of dealing or conduct between the Mortgagee and the Mortgagor shall be effective to amend, modify or change any provisions of this Mortgage or the other Loan Documents. No failure or delay by the Mortgagee to insist upon the strict performance of any term, covenant or agreement of this Mortgage or of any of the other Loan Documents, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, covenant or agreement or of any such breach, or preclude the Mortgagee from exercising any such right, power or remedy at any later time or times. By accepting payment after the due date of any of the Obligations, the Mortgagee shall not be deemed to waive the right either to require prompt payment when due of all other Obligations, or to declare an Event of Default for failure to make prompt payment of any such other Obligations. Neither the Mortgagor nor any other Person now or hereafter obligated for the payment of the whole or any part of the Obligations shall be relieved of such liability by reason of (a) the failure of the Mortgagee to comply with any request of the Mortgagor or of any other Person to take action to foreclose this Mortgage or otherwise enforce any of the provisions of this Mortgage, or (b) any agreement or stipulation between any subsequent owner or owners of the Property and the

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Mortgagee, or (c) the Mortgagee extending the time of payment or modifying the terms of this Mortgage or any of the other Loan Documents without first having obtained the consent of the Mortgagor or such other Person. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate Lien on the Property, the Mortgagee may release any Person at any time liable for any of the Obligations or any part of the security for the Obligations, and may extend the time of payment or otherwise modify the terms of this Mortgage or any of the other Loan Documents without in any way impairing or affecting the Lien of this Mortgage or the priority of this Mortgage over any subordinate Lien. The holder of any subordinate Lien shall have no right to terminate any Lease regardless of whether or not such Lease is subordinate to this Mortgage. The Mortgagee may resort to the security or collateral described in this Mortgage or any of the other Loan Documents in such order and manner as the Mortgagee may elect in its sole discretion.

Section 7.9 Waivers and Agreements Regarding Remedies.

To the full extent the Mortgagor may do so, the Mortgagor hereby:

(a) agrees that it will not at any time plead, claim or take advantage of any Laws now or hereafter in force providing for any appraisal, valuation, stay, extension or redemption, and waives and releases all rights of redemption, valuation, appraisal, stay of execution, extension and notice of election to accelerate the Obligations;

(b) waives all rights to a marshalling of the assets of the Mortgagor, including without limitation, the Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Property, and agrees not to assert any right under any Law pertaining to the marshalling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever to defeat, reduce or affect the right of the Mortgagee under the terms of this Mortgage to a sale of the Property without any prior or different resort for collection, or the right of the Mortgagee to the payment of the Obligations out of the proceeds of sale of the Property in preference to every other claimant whatsoever;

(c) waives any right to bring or utilize any defense, counterclaim or setoff, other than one which denies the existence or sufficiency of the facts upon which any foreclosure action is grounded. If any defense, counterclaim or setoff, other than one permitted by the preceding clause, is timely raised in a foreclosure action, such defense, counterclaim or setoff shall be dismissed. If such defense, counterclaim or setoff is based on a Claim which could be tried in an action for money damages, such Claim may be brought in a separate action which shall not thereafter be consolidated with the foreclosure action. The bringing of such separate action for money damages shall not be deemed to afford any grounds for staying the foreclosure action; and

(d) waives and relinquishes any and all rights and remedies which the Mortgagor may have or be able to assert by reason of the provisions of any Laws pertaining to the rights and remedies of sureties.

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Section 7.10 Setoff.

The Mortgagee may set off against and apply any funds of the Mortgagor on deposit with, or under the control of, the Mortgagee to the payment of the Obligations, without Notice and without resort to any judicial proceeding.

Section 7.11 Compliance with Illinois Foreclosure Law.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (herein called the "Act") the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of (Taking Possession or Control) any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Obligations secured by this Mortgage and/or by the judgment of foreclosure.

ARTICLE VIII MISCELLANEOUS.

Section 8.1 Application of Moneys.

Whenever it is provided in this Mortgage for any moneys to be applied to payment of the Obligations, and no express order of payment is set forth, such moneys shall be applied to the Obligations in such order and manner as the Mortgagee may determine in its sole discretion.

Section 8.2 Further Assurances.

At any time, and from time to time, upon request by the Mortgagee, the Mortgagor will, at the Mortgagor's expense, (a) correct any defect, error or omission which may be discovered in the form or content of any of the Loan Documents, and (b) make, execute, deliver and record, or cause to be made, executed, delivered and recorded, any and all further instruments, certificates, and other documents as may, in the opinion of the Mortgagee, be necessary or desirable in order to complete, perfect or continue and preserve the Lien of this Mortgage. Upon any failure by the Mortgagor to do so, the Mortgagee may make, execute and record any and all such instruments, certificates and documents for and in the name of the Mortgagor, all at the sole expense of the Mortgagor, and the Mortgagor hereby irrevocably appoints the Mortgagee the agent and attorney-in-fact of the Mortgagor to do so, this appointment being coupled with an interest.

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Section 8.3 Notices.

All Notices shall be deemed to have been received when delivered by hand, when delivered to an overnight courier, or when deposited in the mail in the manner provided for in the definition of Notices in ARTICLE I (Definitions).

Section 8.4 Successors and Assigns.

All of the grants, covenants, terms, provisions and conditions of this Mortgage shall run with the Land and shall apply to and bind the successors and assigns of the Mortgagor (including any permitted subsequent owner of the Property), and inure to the benefit of the Mortgagee, its successors and assigns.

Section 8.5 No Warranty by Mortgagee.

By inspecting the Property or by accepting or approving anything required to be observed, performed or fulfilled by the Mortgagor or to be given to the Mortgagee pursuant to this Mortgage or any of the other Loan Documents, the Mortgagee shall not be deemed to have warranted or represented the condition, sufficiency, legality, effectiveness or legal effect of the same, and such acceptance or approval shall not constitute any warranty or representation with respect thereto by the Mortgagee.

Section 8.6 Amendments.

This Mortgage may not be modified or amended except by an agreement in writing, signed by the party against whom enforcement of the change is sought.

Section 8.7 Illegality.

If fulfillment of any provision of this Mortgage or any transaction related hereto shall at any time involve transcending the limit of validity prescribed by Law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained, other than the provisions requiring the Mortgagor to pay the Obligations, operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be void, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect; and if such clause or provision requires the Mortgagor to pay any of the Obligations, then at the sole option of the Mortgagee, all of the Obligations shall become due and payable.

Section 8.8 Governing Law.

This Mortgage is being executed and delivered in the State and shall be construed, governed and enforced in accordance with the Laws in effect from time to time in the State.

Section 8.9 Rights of Tenants.

Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a Decree of Foreclosure and Sale subject to the rights of any tenant or tenants of the Real Property having an interest in the Real Property prior to that of Mortgagee. The failure to join any such tenant or tenants of the Real Property as party defendant or defendants in any such civil action or the failure of any Decree of Foreclosure and Sale to

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foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the indebtedness secured hereby, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Real Property, any statute or rule of law at any time existing to the contrary notwithstanding.

Section 8.10 Further Modification.

With respect to the Illinois Mortgage Foreclosure Law, the Mortgage is hereby amended by adding the following provisions thereto.

(a) Benefits to Act. Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101) (the "Act"), including all amendments thereto which may become effective from time to time after the date hereof. If 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) Insurance. Wherever provision is made in the Mortgage for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure all such rights and powers of the Mortgagee shall continue in the Mortgagee as judgment creditor or mortgagee until confirmation of sale.

(c) Protective Advances. All advances, disbursements and expenditures made 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 authorized, by the Mortgage or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act.

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

The Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded pursuant to Subsection (b)(1) 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) determination of the amount of indebtedness secured by the Mortgage at any time;
- (ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional

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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 has not been waived by the Mortgagor in the Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Act;

(iv) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 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 Subsection (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Act.

(d) Mortgagee in Possession. In addition to any provision of the Mortgage authorizing the Mortgagee to take or be placed in possession of the Real 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 Real 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 the Mortgage, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

(e) Waiver of Redemption. Mortgagor acknowledges that the Real Estate 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. Pursuant to Section 5/15-1601 (b) of the Act, Mortgagor hereby waives any and all right to redemption.

[Signature page follows]

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IN WITNESS WHEREOF, the Mortgagor has caused this Mortgage to be executed under seal as of the day and year first written above.

WITNESS:

CAL SAG AT CRESTWOOD CROSSING LLC,
an Illinois limited liability company

Dyrol Brest

By: *Jerome A Siegel* (SEAL)
Jerome A. Siegel, Manager

Address:

953 V ST NE
WASH DC 20018

The address of Mortgagee is:
c/o 1933 Montana Ave LLC
953 V Street. NE
Washington, DC 20018

District of Columbia
STATE OF ~~ILLINOIS~~
CITY/COUNTY OF Washington, TO WIT:

I HEREBY CERTIFY, that on this 13th day of March, 2014, before me, the undersigned Notary Public of said State, personally appeared Jerome A. Siegel who acknowledged himself to be the manager of CAL SAG AT CRESTWOOD CROSSING LLC, an Illinois limited liability company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized manager of said limited liability company by signing the name of the limited liability company by himself as the manager.

WITNESS my hand and Notarial Seal.

Dyrol Brest
Notary Public

My Commission Expires: 10/31/2018



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EXHIBIT A

PROPERTY DESCRIPTION

ALL that tract or parcel of land located in the Cook County, State of Illinois, and more particularly described as follows:

STREET ADDRESS: 4742-4756 WEST CAL SAG RD.
CITY: CRESTWOOD COUNTY: COOK
TAX NUMBER: 24 34-300-018-0000

LOT 1 IN CRESTWOOD MARKETPLACE SUBDIVISION IN THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, TOWNSHIP 37 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

COOK COUNTY
RECORDER OF DEEDS
SCANNED BY _____