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## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Doc#: 1414016052 Fee: \$122.00  
RHSP Fee:\$9.00 RPRF Fee: \$1.00  
Karen A. Yarbrough  
Cook County Recorder of Deeds  
Date: 05/20/2014 02:30 PM Pg: 1 of 43

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

The property identified as: **PIN: 07-13-103-011-0000**

**Address:**

**Street:** 801 N. Plaza Dr

**Street line 2:**

**City:** Schaumburg

**State:** IL

**ZIP Code:** 60173

**Lender:** American National Insurance Company

**Borrower:** Schaumburg Hotel Partners, LLC

**Loan / Mortgage Amount:** \$9,280,950.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 17/70 et seq. because it is commercial property.

**Certificate number:** 680E580B-E207-419A-8D07-68804C80AACA

**Execution date:** 02/15/2014

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THIS DOCUMENT PREPARED  
BY AND AFTER RECORDING  
RETURN TO:

Holland & Knight, LLP  
131 South Dearborn Street  
Suite 3000  
Chicago, Illinois 60603  
Attention: Francis L. Keldermans

062952  
Permanent Tax Index Number(s):

Property Address(es):

*This space reserved for Recorder's use only.*

7/11

**MORTGAGE, SECURITY AGREEMENT,  
AND FINANCING STATEMENT  
(AND FIXTURE FILING)**

by

**SCHAUMBURG HOTEL PARTNERS, LLC, as Mortgagor**

to and for the benefit of

**AMERICAN NATIONAL INSURANCE COMPANY, as Mortgagee**

**This document serves as a Fixture Filing under the Illinois Uniform Commercial Code,  
Chapter 810 ILCS 5/9-502(b) et seq.**

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## **MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

**THIS MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT** (hereinafter termed "Agreement" or this "Mortgage") is entered into the 15<sup>th</sup> day of May, 2014, by **SCHAUMBURG HOTEL PARTNERS, LLC**, an Illinois limited liability company (hereinafter termed "Mortgagor") whose mailing address is 8615 US Highway 24 West, Fort Wayne, Indiana 46804, for the benefit of **AMERICAN NATIONAL INSURANCE COMPANY**, a Texas insurance company, whose mailing address is Attention: Mortgage and Real Estate Investment Department, 2525 South Shore Blvd., Suite 207, League City, Texas 77573 (hereinafter termed "Mortgagee").

This Agreement secures the payment of any unpaid balances of loan advances which Mortgagee may make or be obligated to make under this Agreement, the Note (as defined herein) or any of the other Loan Documents (hereinafter defined) at any time after this Agreement is delivered to the recorder for record to the extent that the total unpaid loan indebtedness, exclusive of interest thereon, and amounts made for the payment of taxes, assessments, insurance premiums and costs incurred for the protection of the Mortgaged Premises (hereinafter defined) does not exceed the maximum amount of \$9,280,950.00

### **1. DEFINITIONS**

1.1 The term "Indebtedness" shall mean and include:

a. Any and all sums becoming due and payable pursuant to the Note, as hereinafter defined, specifically including amounts representing future advances by Mortgagee to Mortgagor, any and all interest thereon, and any expenses relating thereto;

b. Any and all other sums becoming due and payable by Mortgagor to Mortgagee including, but not limited to, (a) such sums as may hereafter be borrowed by Mortgagor from Mortgagee (it being contemplated that such future indebtedness may be incurred), including, but not limited to advancements or expenditures made by Mortgagee pursuant to the terms and conditions of this Mortgage or any other document evidencing, securing or otherwise relating to the Note;

c. All advances made by Mortgagee for the payment of taxes, assessments, insurance premiums or costs incurred for the protection and preservation of the Mortgaged Property (as hereinafter defined) and all other sums due and payable by Mortgagor to Mortgagee including, but not limited to advancements or expenditures made by Mortgagee pursuant to the terms and conditions of this Agreement, the Loan Agreement, defined below, or any other document evidencing, securing or relating to the Note (collectively with the Note, sometimes the "Loan Documents" and individually a "Loan Document");

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d. Any and all obligations, covenants, agreements and duties of any kind or character of Mortgagor now or hereafter existing, known or unknown, arising out of or in connection with the Note, the Loan Agreement, defined below, this Agreement, or any other document evidencing, securing, guaranteeing or relating to the indebtedness evidenced by the Note, whether direct, indirect, primary or secondary, arising by operation of law or otherwise including but not limited to the Guaranty (hereinafter defined);

e. All renewals, extensions, modifications, increases, consolidations and rearrangements of any or all of the obligations of Mortgagor defined herein under the term Indebtedness, whether or not Mortgagor executes any renewal, extension or other such agreement;

1.2 The term "Collateral" shall mean and include (a) all of the goods, articles of personal property, accounts, general intangibles, instruments, documents, furniture, furnishings, equipment and/or fixtures of every kind and nature whatever (including without limitation, the items described in subsections (b) through (h) below) now or hereafter owned by Mortgagor, in or hereafter placed in, or used or which may become used, in connection with or in the use, enjoyment, ownership or operation of the Mortgaged Premises (hereinafter defined), together with all additions thereto, replacements thereof, substitutions thereof and all proceeds thereof; (b) all rents, rentals, payments, compensations, revenues, profits, incomes, leases, licenses, concession agreements, parking agreements, insurance policies, plans and specifications, contract rights (including, without limitation, all construction contracts, architect's contracts and engineering contracts), accounts; and all accounts receivable arising from the operation of the Mortgage Premises; all escrowed funds, and general intangibles in any way relating to the Mortgaged Premises or used or useful in the use, enjoyment, ownership or operation of the Mortgaged Premises; (c) to the extent Mortgagor has a right to grant a security interest therein, all names, trade names, signs, marks and trademarks under or by which the Mortgaged Premises may at any time be operated or known, all rights to carry on business under any such names, trade names, signs, marks and trade marks, or any variant thereof, any goodwill in any way relating to the Mortgaged Premises and all of Mortgagor's rights to carry on the business of Mortgagor or the Mortgaged Premises under all such names, trade names, signs, marks and trade marks, or any variant thereof; (d) all tangible articles of personal property owned or leased by Mortgagor used or useful in the use, enjoyment, ownership or operation of the Mortgaged Premises; all inventories of supplies used in connection with the operation of the business of the Mortgaged Premises including, without limitation, paper goods, brochures and office supplies located at the Mortgaged Premises; all of the books, records, files, budgets, projections, strategic plans, business plans and specifications, drawings, test reports, inspections and engineering reports, maintenance records, rental records, and any customer lists of Mortgagor in connection with the use, enjoyment, ownership or operation of the Mortgaged Premises; (e) all governmental permits relating to construction on the Mortgaged Premises, and all other consents, authorizations, variances or waivers, licenses, permits and approvals from any governmental or quasi-governmental agency, department, board, commission, bureau or other entity or instrumentality in respect of the Mortgaged Premises, held or used by Mortgagor relating to the Mortgaged Premises; (f) all deposits, awards, damages, payments, escrowed monies, insurance proceeds, condemnation awards or other

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compensation, and interests, fees, charges or payments accruing on or received from or to be received on any of the foregoing in any way relating to the Mortgaged Premises, or the ownership, enjoyment or operation of the Mortgaged Premises together with all proceeds of all of the foregoing described in this Section 1.2; (g) all cash, securities, uncertificated securities, investment property, securities accounts, financial assets, deposit accounts, securities entitlements and other personal property now or hereafter in or coming into or being credited to, or represented by any account in or shares of any Shelton Fund (including the United States Treasury Trust of Shelton Funds) including, without limitation, all interest, dividends, rights, options, powers, splits and income thereon; and (h) all products, proceeds, substitutions, renumberings and replacements of any of the collateral described in this subparagraph.

1.3 The term "Mortgaged Premises" shall mean and include (a) the real property situated in the County of Cook in the State of Illinois, described on **Exhibit "A"**, which is attached hereto and incorporated herein for all purposes and all easements, hereditaments and appurtenances relating thereto (including any interest of Mortgagor in or to any streets or roadways abutting said real property); together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon and all materials now or hereafter placed thereon intended for construction, reconstruction, alteration and repairs of such buildings and improvements, all of which materials shall be deemed to be included as a part of said real property immediately upon the delivery thereof to said real property; (b) all fixtures now or hereafter owned by Mortgagor and attached to, contained in or used in connection with said real property, and all renewals and replacements thereof, including but not limited to (c) all equipment, apparatus, machinery, motors, elevators, fittings and radiators owned by Mortgagor, (d) all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air conditioning and sprinkler equipment owned by Mortgagor; (e) all awnings, storm windows and doors, mantels, cabinets, computer flooring, rugs, carpeting, linoleum, stoves, shades, draperies, blinds and water heaters owned by Mortgagor; (f) such other goods and chattels and personal property as are usually furnished by landlords in letting an unfurnished building, or which shall be attached to said buildings and improvements by nails, screws, bolts, pipe connections, masonry or in any other manner and which are owned by Mortgagor; and (g) all built-in equipment as may be shown by plans and specifications and which are owned by Mortgagor.

1.4 The term "Mortgaged Property" shall mean the Mortgaged Premises and Collateral.

1.5 The term "Note" shall mean the following promissory note that even date herewith, made by Mortgagor and payable to the order of Mortgagee, and any renewal, extension, modification, increase, consolidation or rearrangement of said promissory note or any portion thereof: (i) that certain Promissory Note in the original principal amount of \$9,280,950.00, or so much thereof as shall be advanced under the Loan Agreement, defined below, payable with interest in installments as stipulated therein and providing for the right to declare the unpaid principal balance due and payable upon the occurrence of an Event of Default (hereinafter defined) and otherwise as provided therein and providing for the reasonable attorneys' fees, and given in renewal, extension, modification, increase, consolidation or rearrangement of said Promissory Note or any portion thereof. The maturity date of the Note is June 1, 2021.

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1.6 The term "Loan Agreement" shall mean that certain Construction Loan Agreement of even date herewith executed by Mortgagor and Mortgagee concerning the Note.

1.7 The term "Payment Guaranty" shall mean that certain Absolute, Unconditional Payment Guaranty of even date herewith executed by Ash Lakhany and Samir Lakhany, individually, in favor of Mortgagee with respect to the Note.

1.8 The term "Completion Guaranty" shall mean that certain Absolute, Unconditional Completion Guaranty of even date herewith executed by Ash Lakhany and Samir Lakhany, individually, in favor of Mortgagee with respect to the Note.

1.9 The term "Guaranty" shall mean, individually and collectively, the Payment Guaranty and the Completion Guaranty.

1.10 The term "Guarantor" shall mean Ash Lakhany and Samir Lakhany, individually.

1.13 The terms "attorneys' fees," "attorneys' fees and expenses," "costs and expenses of enforcement," and other terms of similar import shall mean and include support staff costs as an element of reasonable attorneys' fees, and the amounts expended in litigation preparation and computerized research, telephone and telefax expenses, mileage, depositions, postage, photocopies, process service, video tapes and the like as part of the reasonable costs of collection and enforcement, and any and all costs associated with environmental testing, audits, reviews, inspections, remediation and clean-up and any other costs associated with preparing the Mortgaged Property for sale as part of the costs of foreclosure and/or enforcement.

## 2. CONVEYANCE

In consideration of Ten and No/100 Dollars (\$10.00), of Mortgagee's advancing or extending to Mortgagor the funds or credit constituting a part of the Indebtedness, and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Mortgagor, jointly and severally, has executed and delivered this Agreement and by these presents does jointly and severally grant, bargain, assign, transfer and convey to Mortgagee, and to its successors and assigns with mortgage covenants, the Mortgaged Property, for the purpose of securing the Indebtedness, and the full and complete performance of each and every obligation, covenant, duty and agreement of Mortgagor contained herein or in the Note or any other document or instrument evidencing, securing or relating to the Indebtedness (collectively, with the Note, the "Loan Documents"); TO HAVE AND TO HOLD the Mortgaged Property, together with the rights, privileges and appurtenances thereto belonging unto the Mortgagee and its successors and assigns forever, subject only to the items identified on **Exhibit "B"** attached hereto and incorporated herein for all purposes (the "Permitted Exceptions").

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### 3. ADDITIONAL SECURITY

As further security for the Indebtedness and the full and complete performance of each and every obligation, covenant, agreement and duty of Mortgagor contained herein or contained in any other document executed by Mortgagor pertaining to the Note or the security therefor:

3.1 **Security Interest.** Mortgagor hereby jointly and severally grants and conveys to Mortgagee a security interest in and lien on all of the Collateral. This Agreement shall serve as a security agreement and financing statement created pursuant to the Uniform Commercial Code as the same has been adopted in Illinois, as may be amended from time to time ("UCC"), and Mortgagee shall have and may exercise all rights, remedies and powers of a secured party under the UCC. Mortgagor hereby represents, warrants and covenants that (1) Mortgagor is the owner and holder of the Collateral free and clear of any claim, security interest or encumbrance, except those created herein; or those that will be released simultaneously with the creation of Mortgagee's interest hereunder; (2) it will defend the Collateral, and the priority of the security interest created herein as a valid first security interest against all claims and demands of any person at any time claiming the same or any interest therein; (3) there are no financing statements relating to the Collateral now on file in any public office except those financing statements which are being released contemporaneously with the delivery of this transaction or which have been authorized in writing by Mortgagee; (4) Mortgagor authorizes Mortgagee to file or record such other and further agreements, financing statements and assignments in such offices and at such times as it is deemed by Mortgagee to be necessary or desirable; and (5) it will execute and deliver to Mortgagee such other and further agreements, financing statements and assignments as Mortgagee may request.

For all items of the Mortgaged Property in which an interest shall arise under real estate law, this Agreement shall serve as a fixture filing. The debtor is the Mortgagor and the secured party is the Mortgagee and their addresses are those set forth at the beginning of this Agreement. Certain of the Mortgaged Property is or will become "fixtures" (as that term is defined in the UCC), and this Agreement, upon being filed for record in the real estate records of the county wherein the Mortgaged Premises are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of the UCC upon such Mortgaged Property that is or may become fixtures.

3.2 **Assignment of Condemnation Awards.** To the extent of the full amount of the Indebtedness secured hereby and of the cost and expenses (including reasonable attorneys' fees) incurred by Mortgagee in the collection of any award or payment, Mortgagor hereby assigns to Mortgagee any and all awards or payments, including all interest thereon, together with the right to receive the same, which may be made with respect to the Mortgaged Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade of any street, or (c) any other injury to or decreased value in the Mortgaged Property, as well as the right, but not the obligation, to, at Mortgagor's expense, participate in and make decisions concerning the progress of any proceeding involving any such award or payment. Mortgagor shall give Mortgagee written notice of any such action or proceeding immediately upon Mortgagor's becoming aware of same. All such damages,

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condemnation proceeds and consideration shall be paid directly and solely to Mortgagee whether or not an Event of Default has at such time occurred, and after first applying said sums to the payment of all costs and expenses (including reasonable attorneys' fees) incurred by Mortgagee in obtaining such sums, Mortgagee may, at its option, apply the balance on the Indebtedness without prepayment penalty, in any order and whether or not then due, or to the restoration of the Mortgaged Property, or release the balance to Mortgagor. Said application or release shall not cure or waive any default.

#### 4. ABSOLUTE ASSIGNMENT OF RENTS

In further consideration for the indebtedness evidenced by the Note, Mortgagor hereby absolutely and unconditionally and jointly and severally assigns to Mortgagee all rents, revenues, profits and incomes from the Mortgaged Property or any portion thereof; provided, however, that so long as no Event of Default has occurred, Mortgagor is hereby granted a license to collect and retain the currently accruing rents, income and profits from the Mortgaged Property. If an Event of Default shall occur, however, thereupon and at any time thereafter such Event of Default is continuing, Mortgagee may terminate such license and may, without any liability to Mortgagor, take possession and control of the Mortgaged Property and/or receive and collect all rents, revenues, profits and income, accrued or accruing thereafter so long as any of the Indebtedness remains unpaid, applying so much thereof as may be collected first to the expenses incident to taking possession and/or the collection thereof, and second to the payment of the Indebtedness other than the Note and then to the amount of the Note then remaining unpaid, at Mortgagee's discretion, either principal or interest, in any order, and whether then matured or not, paying the balance, if any, to the Mortgagor. It is intended by Mortgagor and Mortgagee that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only and that Mortgagee shall be entitled to exercise its rights hereunder whether or not Mortgagee is in possession of the Mortgaged Premises at such time. Mortgagor agrees to fulfill or perform each and every covenant of any and all leases and guaranties of leases of the Mortgaged Property so as to keep them at all times in full force and effect. Except for the leasing of hotel rooms by Mortgagor in the ordinary course of business, Mortgagor agrees not to enter into any new lease, and not to make any modification, consent to any modification of, or cancel, terminate or consent to the surrender of any lease of all or any part of the Mortgaged Property or any guaranty of such lease after such lease or guaranty has been executed by Mortgagor and the lessee or guarantor, as applicable, without the prior written consent of Mortgagee, the failure to fulfill or perform any such covenant or the making of or consent to any such modification or cancellation, termination or surrender shall be an Event of Default. Nothing contained in this Agreement or in any other document securing, evidencing or relating to the Indebtedness shall preclude Mortgagee from taking any action to cure or remedy any default of the Landlord under any lease of all or any portion of the Mortgaged Property or any guaranty of lease, or any act, omission or occurrence which but for the passage of time, the giving of notice, or both, would be a default under any such lease or guaranty of lease or take any other action in connection therewith and any amounts expended by Mortgagee in connection with such cure or remediation including, without limitation, reasonable attorneys' fees and expenses, shall be an advance under and secured by this Agreement and shall be included in the Indebtedness and shall be paid by Mortgagor to Mortgagee on demand.



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The preceding sentence shall not be construed to obligate Mortgagee to cure any such actual or potential lease defaults or any guaranty of lease defaults.

## 5. MORTGAGOR'S REPRESENTATIONS AND WARRANTIES

In order to induce Mortgagee to lend the funds evidenced by the Note, Mortgagor jointly and severally represents and warrants that:

5.1 **Accurate Loan Information.** All information and financial statements furnished or to be furnished to Mortgagee by or on behalf of Mortgagor in connection with the Indebtedness secured by this Agreement is or at the time of delivery will be complete and accurate in all respects.

5.2 **Valid Title.** Mortgagor is the lawful owner of the Mortgaged Property and has good right and lawful authority to mortgage and pledge the same.

5.3 **Freedom from Encumbrances.** The Mortgaged Property is free from any and all liens and encumbrances save and except only the Permitted Exceptions, and Mortgagor does warrant and will defend title to the Mortgaged Property against all claims or demand by third parties whatsoever save and except only the Permitted Exceptions, whether such defense against claims is made by Mortgagor itself or by Mortgagor making a claim on its owner's policy of title insurance.

5.4 **Maintenance of Lien Priority.** Mortgagor shall take all steps necessary to preserve and protect the validity and priority of the liens on the Mortgaged Property created hereby. Mortgagor shall execute, acknowledge and deliver such additional documents as Mortgagee may deem necessary in order to preserve, protect, continue, extend or maintain the liens and security interests created hereby as first liens on the Mortgaged Property. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the security interest and the liens herein created as valid first and subsisting liens shall be paid by Mortgagor.

5.5 **Value of the Mortgaged Property.** The value of Mortgaged Property, as established by an appraisal submitted to Mortgagor, is substantially in excess of the Indebtedness secured hereby. Mortgagor acknowledges but for the Mortgaged Property having a value in excess of the amount of the Indebtedness, Mortgagee would not make the loan evidenced by the Note and advance the funds hereunder. Mortgagor agrees that Mortgagee shall at all times have the benefit of the Mortgaged Property as the security for the Indebtedness even though the value thereof may now or in the future exceed the amount of the Indebtedness secured hereby.

5.6 **Representations, Warranties and Covenants.** Mortgagor hereby represents, warrants and covenants that:

a. Mortgagor is an Illinois limited liability company governed by that certain Operating Agreement dated on or about even date (the "Operating Agreement"). There are no further amendments thereto.

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b. Lakhany Schaumburg Hotels, LLC, is the manager of Mortgagor (the “Manager”). Manager is authorized to execute and deliver the Note, this Agreement, and all other documents which Mortgagor may now or from time to time hereafter require to be executed on behalf of Mortgagor in connection with the Note, this Agreement, or the Indebtedness, and no signature or any other action of any other officer or other person or entity shall be required to bind Mortgagor.

c. Except as required in connection with Permitted Transfers (as defined in Section 6.9 of this Agreement), Mortgagor will not modify, amend or terminate the Operating Agreement described in paragraph (a) above nor permit any interest of any member to be sold, transferred, conveyed, encumbered or otherwise the subject of any Transaction (as defined below).

d. Except for Permitted Transfers, Mortgagor will not permit any interest in Mortgagor, to be sold, transferred, conveyed, encumbered or otherwise the subject of any Transaction, defined below.

5.7 **Construction and Materials.** Mortgagor hereby warrants, represents and covenants that all persons and entities who have provided labor or materials to or for the benefit of Mortgaged Property by, through or under Mortgagor or otherwise at Mortgagor’s direction or request at any time prior to the date of this Agreement have been or will be paid in full.

5.8 **Hazardous Waste.** Except as otherwise described in the Phase I Environmental Site Assessment Report delivered to Mortgagee by Mortgagor prior to the date hereof, Mortgagor is not aware of any facts or circumstances which may give rise to any litigation, proceedings, investigations, citations or notices of violations resulting from the use, presence, generation, manufacture, storage, discovery or disposition of, on, under or about the Mortgaged Property or the transport to or from the Mortgaged Property of any Hazardous Materials, defined below. Mortgagor hereby represents and warrants that the Mortgaged Property is not in violation of and Mortgagor covenants and agrees not to use or permit the use of the Mortgaged Property for any purpose which would be in violation of, any federal, state or local health or environmental statute, regulation, ordinance or publication which is presently in effect or that may be promulgated in the future, as such statutes, regulations, ordinances and publications may be amended from time to time relating to Hazardous Materials, including, without limitation, with respect to industrial hygiene or to health or environmental conditions on, under, or about the Mortgaged Property (including, but not limited to, soil and ground water conditions) or with respect to the owner’s or occupant’s thereof. The foregoing representations and warranties shall survive foreclosure under this Agreement and shall constitute continuing representations and warranties to Mortgagee, its successors and assigns. The term Hazardous Materials, as used in this Agreement, shall include but not be limited to:

- a. petroleum, petroleum based products and oil;

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b. asbestos of any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls (sometimes known as a "pcb");

c. tanks, whether empty, filled or partially filled with any substance, material, chemical or other waste;

d. any substance, material, chemical or other waste including, without limitation any explosive, flammable substances, explosives or radioactive materials, hazardous or toxic waste, hazardous or toxic materials, hazardous, toxic or radioactive substances, contaminants or pollutants and any of the preceding which are defined as or included in the definition of "Hazardous Substance," "Hazardous Waste," "Hazardous Material" or "Toxic Substance" or other similar or related terms under any applicable local, state or federal statute, regulation, ordinance or publication including but not limited to:

e. Resource Conservation and Recovery Act of 1976 (commonly referred to as the Solid Waste Disposal Act), 42 U.S.C. sec. 6901 et seq.;

f. Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. sec. 9601 et seq.;

g. Clean Air Act, 42 U.S.C. sec. 7401 et seq.;

h. The Water Pollution and Prevention and Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. sec. 1251, et seq.;

i. Hazardous Materials Transportation Act, 49 U.S.C. sec. 1801 et seq.;

j. Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. sec. 136 et seq.;

k. Toxic Substances Control Act, 15 U.S.C. sec. 2601 et seq.;

l. Safe Drinking Water Act, 42 U.S.C. sec. 300(f) et seq.; and

m. any applicable statute, rule, regulation, ordinances, publications or order now in effect or enacted in the future in the State of Illinois,

as such statutes, regulations, ordinances and publications may be amended from time to time; and

n. any other material, substance, chemical or other waste, exposure to which is prohibited, limited or regulated from time to time by any federal, state or local statute, regulation,

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ordinance or publication or may pose a hazard to the health and/or safety of the occupants of the Mortgaged Property or any other adjacent or nearby property.

To Mortgagor's actual knowledge, except as otherwise disclosed to Mortgagee in writing, the present use and occupancy of the Mortgaged Premises do not violate or conflict with any applicable law, statute, ordinance, rule, regulation or order of any kind, including, without limitation, Environmental Laws, zoning, building, land use, noise abatement, occupational health and safety or other laws, any building permit or any condition, grant, easement, covenant, condition or restriction, whether recorded or not and if a third-party is required under any covenants, conditions and restrictions of record or any other agreement to consent to the use and/or operation of the Mortgaged Premises, Mortgagor has obtained such approval from such party.

Except as disclosed in any environmental reports delivered to Mortgagee, to Mortgagor's actual knowledge, the Mortgaged Premises has never been used by Mortgagor, and the Mortgaged Premises will not be used by Mortgagor, for any activities which, directly or indirectly, involve the use, generation, treatment, storage, transportation or disposal of any Hazardous Materials in violation of Environmental Laws. To Mortgagor's actual knowledge, no Hazardous Materials exist now, and Mortgagor shall not hereafter permit Hazardous Materials to exist, on or under the Mortgaged Premises or in any surface waters or groundwater, on or under the Mortgaged Premises in violation of Environmental Laws. To Mortgagor's actual knowledge, the Mortgaged Premises and its existing and prior uses have at all times complied with and will comply with all Environmental Laws, and Mortgagor has not violated, and will not violate, any Environmental Laws;

To Mortgagor's actual knowledge, there are no facilities on the Mortgaged Premises which are subject to reporting under any State laws or Section 312 of the Federal Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. sec. 11022), and federal regulations promulgated thereunder. To Mortgagor's actual knowledge, the Mortgaged Premises does not contain any underground storage tanks;

Notwithstanding the nonrecourse language of the Note and the provisions of this Agreement, Mortgagor hereby agrees to indemnify and hold Mortgagee, its directors, officers, employees, and agents, and any successors to Mortgagee's interest in the chain of title to the Mortgaged Property, their directors, officers, members, employees, and agents (the "Indemnitees"), from and against any and all liability (i) including all foreseeable and all unforeseeable consequential damages, directly or indirectly arising out of the use, presence, generation, storage, transportation or disposal of Hazardous Materials by Mortgagor, its present or future tenants, any prior owner, operator or tenant of the Mortgaged Property, or any third party, and (ii) including, without limitation, the cost of any required or necessary repair, cleanup or detoxification, claimed, threatened or asserted against any such Indemnitee arising out of the use, presence, generation, storage, transportation or disposal of Hazardous Materials on or about the Mortgaged Property by Mortgagor, its present tenants or any future tenants, any prior owner, operator or tenant of the Mortgaged Property, or any third party, **SUCH INDEMNITY AND HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE ORDINARY**

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OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE WILLFUL OR INTENTIONAL MISCONDUCT, OF AN INDEMNITEE AND FOR ANY ACTION OR OCCURRENCE FOR WHICH THE INDEMNITEE MAY INCUR STRICT LIABILITY; provided, however, that this indemnification shall not apply to any contamination of the Property which occurs as a result of the use, generation, storage or disposal of materials by or under the control of a party other than Mortgagor after the date Mortgagee takes possession of the Mortgaged Property as a result of a deed in lieu of foreclosure or the date Mortgagor ceases to possess the Mortgaged Property as a result of a foreclosure sale or sale to a third party approved by Mortgagee. Mortgagor's obligations pursuant to the foregoing indemnity shall survive any termination of the estate created by this Agreement as a result of the exercise by Mortgagee of any default remedies available to it at law or in equity. Mortgagor acknowledges and agrees that as a condition precedent to making the loan to Mortgagor evidenced by the Note secured by this Agreement, Mortgagee has required that Mortgagor provide to the Indemnitees the indemnity set forth herein and that Mortgagee would not consummate the loan without this indemnity and that the indemnity contained herein is a material inducement for Mortgagee's agreement to make the loan. Further, Mortgagor agrees that the foregoing indemnification is separate, independent of and in addition to its undertakings as Mortgagor under the Note, as Mortgagor under this Agreement, as Assignor under the Absolute Assignment of Leases and Rents and any and all other documents, agreements and undertakings executed by Mortgagor in favor of Mortgagee pursuant to the Note. Mortgagor agrees that a separate action may be brought to enforce the provisions of this indemnification, which shall in no way be deemed to be an action on the Note or under this Agreement, whether or not Mortgagee would be entitled to a deficiency judgment following a foreclosure sale of the Mortgaged Property. This Section 5.8 shall not (a) prevent Mortgagor or its tenants from using those substances and materials normally used in the maintenance, repair and upkeep of commercial properties such as the Mortgaged Premises so long as the same are stored and used in normal commercial quantities and in compliance with the applicable laws and regulations, and (b) shall not prevent Mortgagor's tenants from accepting delivery of, storing, packaging, and shipping personal care products in compliance with applicable laws, regulations, and any lease in effect with such tenant.

## 6. ADDITIONAL COVENANTS OF MORTGAGOR

As long as any of the Indebtedness remains unpaid, Mortgagor covenants and agrees that:

6.1 **Payment of Indebtedness.** Mortgagor will pay the Indebtedness promptly when due and payable.

### 6.2 **Payment of Taxes and Other Assessments.**

a. Mortgagor will pay all taxes, assessments and other governmental, municipal or other public dues, charges, fines, or impositions imposed or levied upon the Mortgaged Property or on the interest created by this Agreement, or any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Mortgaged Property or on the interest created by this

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Agreement, and at least ten (10) days before said taxes, assessments and other governmental charges are due will exhibit receipts therefor to Mortgagee. If any tax or assessment (other than income tax) is levied, assessed or imposed on Mortgagee as a legal holder of the Note or any interest in the Loan Documents by any governmental authority, then unless all such taxes are paid by Mortgagor as they become due and payable and in the opinion of counsel of Mortgagee, such payment by Mortgagor is lawful and does not place Mortgagee in violation of any law, Mortgagee may, at its option, declare the Indebtedness immediately due and payable.

b. Mortgagor may in good faith contest, by proper legal proceedings, the validity or amount of any tax, assessment, charge or levy which Mortgagor has agreed to pay pursuant to the provisions of this Agreement and may delay payment, performance or discharge thereof during the period in which the same is being contested; provided, however, that if payment, performance or compliance is delayed: (a) such proceedings shall suspend the collection thereof from Mortgagor and/or Mortgagee, and the Mortgaged Property, (b) in any such event Mortgagor shall deposit with Mortgagee, as security for the payment or discharge of such contested item, an amount equal thereto plus interest, penalties, and costs, (c) such contested item and all costs and penalties, if any, shall have been paid at least thirty (30) days before the date on which the Mortgaged Property, or any portion thereof, may be sold in order to satisfy any such contested items, and (d) in the case of any matter described in for which criminal or civil liability might accrue to Mortgagor or Mortgagee, neither Mortgagor nor Mortgagee would be in any danger of any criminal or civil liability for failure to comply therewith.

6.3 **Insurance.** Mortgagor shall keep the Mortgaged Property insured against loss or damage by fire, windstorm, extended coverage perils, flood (in the event any of the Mortgaged Premises is within a one hundred (100) year flood plain and flood insurance is available pursuant to the United States Flood Disaster Protection Act of 1973 or any similar or successor statute or successor governmental authority, as the same may be amended from time to time), vandalism, malicious mischief and such other hazards, casualties or other contingencies and in such amounts (but in no event less than the greater of the amount of the Indebtedness from time to time secured hereby or the full replacement value of the Mortgaged Property) as from time to time may be required by Mortgagee, and maintain rents or rental value insurance coverage, in an amount at least adequate to cover twelve (12) months' principal and interest installments on the Note and together with twelve (12) months' property taxes and insurance premiums, with respect to the Mortgaged Property covering the risk of loss due to the occurrence of any of the foregoing hazards, in each case and in such amounts, in such manner and in such companies as the Mortgagee may approve, and all such policies shall contain a waiver of subrogation and provide that any losses payable thereunder shall (pursuant to standard mortgagee clauses without contribution, including one providing that such insurance as to the interest of Mortgagee shall not be invalidated by any act or omission or neglect of Mortgagor, to be attached to each policy) be payable to Mortgagee. Mortgagor shall cause duplicate originals or certified copies of any and all such insurance policies to be deposited with Mortgagee. Mortgagor will also carry public liability insurance, in such form, amounts and with such companies as Mortgagee may from time to time reasonably require, with Mortgagee included thereon as a named insured. Each insurance policy or endorsement required herein shall be written by an insurer

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having a rating of "A-X" or better Best's Rating according to the most current edition of Best's Key Rating Guide as determined at the time of the initial policy and at all times during the term hereof. All policies shall indicate that notices related to such insurance shall be sent to Mortgagee at:

American National Insurance Company  
 Attn: Mortgage and Real Estate Investment Department  
 2525 South Shore Blvd., Suite 207  
 League City, Texas 77573

Any or all of such policies may be provided under a blanket policy or policies provided such blanket policies allocate the amount of insurance required hereunder to the Mortgaged Property. Mortgagor shall cause duplicate originals of any and all such insurance policies to be deposited with Mortgagee, or certificates of the insurers under such policies evidencing same. At least ten (10) days prior to the date the premiums on each such policy or policies shall become due and payable, Mortgagor shall furnish to Mortgagee evidence of the payment of such premiums. Each of such policies shall contain an agreement by the insurer that the same shall not be cancelled or modified without at least ten (10) days' prior written notice to Mortgagee. In the event of loss under any such policy, Mortgagor shall give immediate written notice to the insurance carrier and to Mortgagee. With respect to all insurance policies except public liability insurance, Mortgagee is hereby authorized, but not required, on behalf of and at the expense of Mortgagor, whether or not an Event of Default has then occurred, to make proof of loss, to collect for, adjust or compromise any losses under any insurance policy on the Mortgaged Property, to appear in and prosecute any action arising from any of such insurance policies, and to apply, at Mortgagee's option, the loss proceeds (less expenses of collection) on the Indebtedness without prepayment penalty, in any order and whether due or not, or to the restoration of the Mortgaged Property, or to be released to Mortgagor, but any such application or release shall not cure or waive any default. In case of a sale pursuant to the foreclosure provision hereunder, or any conveyance of all or any part of the Mortgaged Property in extinguishment of the Indebtedness, complete title to all insurance policies on or related to the Mortgaged Property, and the unearned premiums of same shall pass to and vest in the purchaser or grantee of the Mortgaged Property.

**6.4 Escrow for Taxes and Insurance.** The requirements for escrows for taxes and insurance have been conditionally waived by Noteholder so long as no Termination of Escrow Waiver Event occurs. A "Termination of Escrow Waiver Event" means one or more of the following: (i) an Event of Default has occurred and is continuing; (ii) any Taxes and Assessments is not paid prior to delinquency or any premium to maintain the insurance required in this Agreement is not paid when due; or (iii) the Maker does not own the Mortgaged Property unless the subject loan has been assumed by a borrower approved in writing by Noteholder, in Noteholder's sole and absolute discretion. If a Termination of Escrow Waiver Event occurs, thereafter Maker shall pay, in addition to the installments payable under the Note, on the same day as such installments are due and payable, a sum equal to 1/12th of the estimated annual taxes, hazard and rental insurance premiums, and special assessments, if any, next due on the Mortgaged Property. If the amount so paid is not sufficient to pay such taxes, insurance premiums and assessments when due, then Maker will immediately deposit with Noteholder amounts sufficient to pay the same. Funds deposited by Maker

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pursuant to this provision shall be used to pay such taxes, insurance premiums and assessments when due, provided that Maker has furnished Noteholder with all tax statements, premium notices and other such notices at least thirty (30) days prior to the date that any such taxes, premiums and assessments may be due. If there is an Event of Default under this Agreement, Noteholder may elect, at any time after default, to apply the funds accumulated under this provision against the Indebtedness in any manner or order. No interest shall accrue or be allowed on any payments under the provisions of this paragraph. Noteholder shall not be required to deposit or hold monies in an account special or separate from its general funds. Maker expressly releases Noteholder from any liability to Maker arising out of the maintenance by Noteholder of an escrow as provided herein or for payment of any sums out of such escrow. Maker further indemnifies Noteholder against claims arising out of payment of taxes or insurance premiums where Maker has failed to provide Noteholder with tax statements and premium notices as required hereby. The maintenance by Noteholder of an escrow for Taxes and Assessments and insurance shall not relieve Maker of its obligations under this Agreement respecting Taxes and Assessments and insurance on the Mortgaged Property if such escrow is insufficient or otherwise applied as provided in accordance with this Agreement. A charge of \$200.00 per month for administration expenses shall be assessed against Maker for each successive month that all paid tax receipts and insurance policies are not delivered to Noteholder within thirty (30) days after notice to Maker of failure to deliver such documents.

## 6.5 Patriot Act.

a. As of the date of this Agreement, Mortgagor is and, during the term of this Agreement shall remain, in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including but not limited to, conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money laundering crime prohibited under the Money Laundering Control Act, 18 U.S.C. sec. 1956, 1957, or the Bank Secrecy Act, 31 U.S.C. sec. 5311 et seq. and any amendments or successors thereto and any applicable regulations promulgated thereunder.

b. Mortgagor represents and warrants that: (i) neither it, nor, to the best of its knowledge, any of its owners, or any officer, director or employee, is named as a "Specially Designated National and Blocked Person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (ii) it is not owned or controlled, directly or indirectly, by the government of any country that is subject to a United States Embargo; and (iii) it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a "Specially Designated National and Blocked Person," or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.



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c. Mortgagor acknowledges that it understands and has been advised by legal counsel on the requirements of the applicable laws referred to above, including the Money Laundering Control Act, 18 U.S.C. sec. 1956, 1957, the Bank Secrecy Act, 31 U.S.C. sec. 5311 et seq., the applicable regulations promulgated thereunder, and the Foreign Assets Control Regulations, 31 C.F.R. sec. 500 et seq.

d. Mortgagor shall notify Mortgagee immediately upon receipt of any information indicating a breach of this Section 6.5. or if Mortgagor or any officer, director, member, manager, member or employee of Mortgagor is custodially detained on charges relating to money laundering, whereupon Mortgagee shall be entitled to take all actions necessary so that Mortgagee is in compliance with all anti-money laundering regulations. Any and all loss, damage, liability, penalty, fine or expense (including reasonable attorney's fees and investigatory expenses) incurred by Mortgagee in connection therewith shall be included in the Indebtedness secured hereunder and shall immediately be due and payable by Mortgagor to Mortgagee.

6.6 **Waste, Demolition, Alteration or Replacement.** Mortgagor will cause the Mortgaged Property and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will not commit or permit waste thereon, will not remove, demolish or alter the design or structural character of any building now or hereafter erected on the Mortgaged Premises, without the prior written consent of Mortgagee, and will comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and will from time to time make all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. Mortgagor agrees not to remove any of the fixtures or personal property included in the Mortgaged Property unless immediately replaced with like property of at least equal value. Mortgagor shall act as necessary to continue or cause the continuance of such income producing activity as is presently conducted upon or contemplated for the Mortgaged Property.

6.7 **Inventory of Personal Property.** Upon request of Mortgagee, Mortgagor shall deliver to Mortgagee an inventory describing and showing the make, model, serial number and location of all fixtures and personal property from time to time used in the management, maintenance and operation of the Mortgaged Property (other than inventory or property, if any, expressly excluded from the operation of this Agreement by separate written agreement) with a certification by Mortgagor that said inventory is a true and complete schedule of such fixtures and personal property used in the management, maintenance and operation of the Mortgaged Property and that (except for leased equipment) such items specified in the inventory constitute all of the fixtures and personal property required in the management, maintenance and operation of the Mortgaged Property and that such items are owned by Mortgagor free and clear of security interests, liens, conditional sales contracts or title retention arrangements. Mortgagor hereby grants to Mortgagee a security interest in all such items of fixtures and personal property under the terms and conditions of this Agreement.

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6.8 **Financial Statement.** April 30<sup>th</sup> of each and every year is the “Financial Statement Due Date”. The requirement for escrows for audited financial statements has been conditionally waived by Noteholder so long as no Termination of Audited Statement Waiver Event occurs. A “Termination of Audited Statement Waiver Event” means one or more of the following: (i) an Event of Default has occurred and is continuing; or (ii) on or before the Financial Statement Due Date Maker has not furnished Noteholder (a) annual operating information relating to the Mortgaged Property for each calendar year (or, with respect to 2014, portion thereof that Maker has owned the Mortgaged Property) on the form attached hereto as **Exhibit “C”** attached hereto and incorporated herein for all purposes (or such other form as required by Noteholder from time to time), signed by an executive officer of Maker or Maker’s manager or managing member, as applicable, and which includes the certification that, to the best of Maker’s knowledge, during the period of time covered by the particular statement, (1) no activity has been conducted upon the property in violation of any state, federal or local law, ordinance or regulation pertaining to toxic or hazardous materials, industrial hygiene or environmental conditions, and (2) the Mortgaged Property complies in all material respects with the Americans with Disabilities Act of 1990, as it may be amended from time to time, or any state equivalent statute, and (b) except for hotel guests leasing hotel rooms in the ordinary course of Mortgagor’s business, a detailed listing of all tenants leasing space in the Mortgaged Property which listing evidences the rate, the term, the amount of space, annual rent, any other reimbursements paid by each tenant, and, where appropriate, sales information provided by such tenant on the form attached hereto as **Exhibit “D”** attached hereto and incorporated herein for all purposes (or such other form as required by Noteholder from time to time) signed by an executive officer of Maker or Maker’s manager or managing member, as applicable. If a Termination of Escrow Waiver Event occurs, thereafter Maker shall furnish to Noteholder on or before Financial Statement Due Date until the Indebtedness secured hereby has been fully paid, annual audited financial statements prepared by or for Maker pertaining to Maker’s operation of the Mortgaged Property, each such statement prepared in accordance with generally accepted accounting principles and each such statement prepared and signed by an independent certified public accountant approved by and acceptable to Noteholder. The financial statements referenced herein shall also contain Maker’s certification that, during the period of time covered by the particular statement, to Maker’s knowledge, (1) no activity has been conducted upon the Mortgaged Property in violation of any state, federal or local law, ordinance or regulation pertaining to Hazardous Materials, industrial hygiene or environmental conditions and (2) the Mortgaged Property complies in all material respects with the Americans With Disabilities Act of 1990, as it may be amended from time to time, or any state equivalent statute. In addition to any other right or remedy of Noteholder for failure timely deliver any of the operating statements, lists, certifications or other documents and information required in this paragraph, Maker shall pay Noteholder \$200 per month or portion thereof as an administrative fee for each successive month that all financial statements are not delivered to Noteholder by the Financial Statement Due Date; provided that no such fee shall be assessed unless Noteholder has sent Maker written notice that Maker is in default (or will be in default if such notice is sent on or within the 30 days prior to such Financial Statement Due Date) in providing such statements and Maker has failed to cure such default within 30 days after such notice was given.

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6.9 **Restrictions Upon Sale, Transfer or Mortgaging the Mortgaged Property or the Interest in Mortgagor.** Mortgagor acknowledges that Mortgagee is relying on the creditworthiness and skill of Mortgagor and its members in advancing sums secured hereby. Except for Permitted Transfers (as hereinafter defined): (i) if Mortgagor should sell, trade, convey, transfer, mortgage, assign, exchange, pledge or encumber (including, without limiting these provisions or any similar references in this Agreement, the granting of a security interest in) all or any part of Mortgaged Property, or any interest of Mortgagor therein, absolutely or as security for a debt or other obligation, whether done in a direct or indirect method or enter into any contractual arrangements to do so, or (ii) if a member of Mortgagor should sell, trade, convey, transfer, mortgage, assign, exchange, pledge or encumber (including, without limiting these provisions or any similar references in this Agreement, the granting of a security interest in) all or any part of its interest in Mortgagor or if such member's interest in Mortgagor shall otherwise be diluted, or (iii) if Mortgagor shall in any way, voluntarily or involuntarily be divested of title or of any interest in the Mortgaged Property, then the Mortgagee, at its option, may elect to accelerate the maturity of the Note and declare the entire amount of the Indebtedness immediately due and payable whereupon Mortgagor shall have thirty (30) days to pay the full sum of the Indebtedness including, without limitation, principal and interest, whether or not any such sale, trade, conveyance, transfer, mortgage, assignment, exchange, pledge, or encumbrance might diminish the value of the security for the Indebtedness or increase the likelihood of an Event of Default or increase the likelihood of the Mortgagee having to resort to any other security for the Indebtedness after default or add or remove liability of any party for payment or performance of the Indebtedness. The foregoing restriction shall be effective and remain in full force and effect throughout the term of this Agreement and shall be applicable to Mortgagor, each member of Mortgagor and their respective heirs, executors, administrators, successors and assigns.

The following shall constitute Permitted Transfers: (i) a natural person's transfer by will or applicable intestacy laws, (ii) transfers of ownership interests in Mortgagor to any related entity provided that the identity of the individuals who ultimately own and control Mortgagor do not change, (iii) the transfers of ownership interests in Mortgagor to any other entity which is and remains at least 51% owned by the individuals who own the current members of the Mortgagor (subject to and excepting transfers which may occur upon death of an individual); (iv) the reallocation of ownership interests in Mortgagor or its members due to the death, disability or incapacity of a principal; (v) transfers of up to 49%, in the aggregate, of Mortgagor to an estate, spouse or trust of a member; and (vi) Mortgagor's one-time right to sell as described below. Such Permitted Transfers may be made without Mortgagee's consent, without any change in the terms of the Indebtedness, and without payment of a transfer fee.

The consent by the Mortgagee to any one such sale, trade, conveyance, transfer, mortgage, assignment, exchange, pledge, or encumbrance described herein (one or more of the preceding a "Transaction") shall not waive or forfeit the right of Mortgagee to elect to accelerate the Indebtedness to maturity as to any other Transaction. Mortgagor further covenants and agrees to give written notice to Mortgagee in the event there occurs any Transaction (other than a Permitted Transfer) which would violate the terms and conditions of this provision. The term "Transaction" shall include any voluntary or involuntary act or omission of Mortgagor. Nothing herein contained

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shall prevent Mortgagee from accelerating the Note at any time in the event Mortgagor enters into such a Transaction (other than a Permitted Transfer) and does not notify Mortgagee of same. The Mortgagor may request Mortgagee to waive the right to declare the entire amount of the Indebtedness immediately due and payable and Mortgagee may, in its reasonable discretion, consent or refuse to consent to the Transaction (other than a Permitted Transfer). As a condition of consenting to the Transaction (other than a Permitted Transfer), Mortgagee may, in its absolute discretion, make one or more of the following requirements:

- a. That the rate of interest contained in the Note be increased to a rate acceptable to Mortgagee;
- b. That a transfer fee, in an amount determined by Mortgagee, be paid;
- c. That a principal payment be made against the Note;
- d. That the proposed transferee execute an assumption agreement or other document as Mortgagee may reasonably require; or
- e. That any other requirement reasonably deemed appropriate by Mortgagee is satisfied.

No Transaction pursuant to the foregoing provisions of this Section 6.9 or described in Section 8.1(e) below shall in any way release Mortgagor or any other party liable on any of the Indebtedness or liable under any document securing, evidencing or relating to the Indebtedness from any such liability, unless such release is approved by Mortgagee in writing. In the case of a Permitted Transfer, the transferor shall automatically be released from liability related to the Indebtedness and the Loan Documents that arises after the effective date of the transfer.

Notwithstanding the foregoing provisions of this Section 6.9 or Section 8.1(e) below, and provided the Mortgagor has not defaulted on the loan, Mortgagee will allow the transfer or distribution of membership interests in the Mortgagor provided such transfer or distribution is made (i) to any other member of Mortgagor; (ii) to any member of the immediate family of any such member including spouse, children, or grandchildren; (iii) to any trust for the benefit of any of the parties referred to in (i) or (ii) above; or (iv) pursuant to operation of law upon death of a member; provided that in each case (i) through (iv), Ash Lakhany or Samir Lakhany maintain management and operating control of the Mortgaged Property and Mortgagor and American National Insurance Company shall be given prompt notice of any such transfer and such transfers shall not release the original members of Mortgagor and their estate from liability under the loan to the extent there was liability. The aforementioned transfers shall neither trigger the "due on sale" clause referenced in the first paragraph of this section, nor invoke the assumption fee, or change the monthly payment. As a condition to the above-mentioned transfers, the transferee(s) shall assume in writing all obligations of the transferor under the Loan Documents, and Mortgagor shall pay all of Mortgagee's out-of-pocket costs and expenses in connection with such transfer and assumption.

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6.10 **Delivery of Substitute Note.** Mortgagor will, if the Note is mutilated, destroyed, lost or stolen, deliver to Mortgagee, in substitution therefor, a new promissory note containing the same terms and conditions as the Note with a notation thereon of the unpaid principal and accrued but unpaid interest. Mortgagor shall be furnished with satisfactory evidence of the mutilation, destruction, loss or theft of the Note, and also such security or indemnity as may be reasonably requested by Mortgagee; provided, however, that if the original Mortgagee named herein is the then Mortgagee under this Agreement, an unqualified indemnity from the original Mortgagee named herein shall be deemed to be satisfactory security or indemnification.

6.11 **Compliance with Covenants, Conditions, Restrictions and Recorded Documents.** Mortgagor shall, and shall cause the Mortgaged Property to, fully and timely comply with all restrictions covenants, conditions and agreements benefiting, burdening or imposed on the Mortgaged Property or any portion thereof or the owner of all or such portion of the Mortgaged Property, to the extent they affect or purport to affect the Mortgaged Property.

6.12 **ERISA.** As of the date hereof and throughout the term of this Agreement, (i) Mortgagor is not and will not be an “employee benefit plan” as defined in Section 3(3) of Employee Retirement Income Security Act, as may be amended (“ERISA”), which is subject to Title I of ERISA; (ii) the assets of Mortgagor do not and will not constitute “plan assets” of one or more such plans for purposes of Title I of ERISA; (iii) Mortgagor is not and will not be a “governmental plan” within the meaning of Section 3(3) of ERISA; (iv) transactions by or with Mortgagor are not and will not be subject to state statutes applicable to Mortgagor regulating investments of fiduciaries with respect to governmental plans; and (v) Mortgagor shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Mortgagee of any of its rights under this Agreement, the Note, or the other loan documents evidencing, securing or relating to the Note) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA. Mortgagor further agrees to deliver to Mortgagee such certifications or other evidence of compliance with the provisions of this section as Mortgagee may from time to time request.

6.13 **Segregated Parcel.** The Mortgaged Premises shall be taxed separately as a distinct tax parcel within inclusion of any other real estate, and each such parcel, as described on **Exhibit “A”**, shall constitute a legally subdivided lot under all applicable statutes, regulations, ordinances or publications and for all purposes may be mortgaged, conveyed and otherwise dealt with as an independent parcel.

6.14 **Single Purpose Entity/Separateness.** Mortgagor represents, warrants and covenants as follows:

a. **Limited Purpose.** The sole purpose conducted by Mortgagor is to engage in the following activities:

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(1) to acquire, own, hold, lease, operate, manage, maintain, develop and improve the Mortgaged Premises (or an undivided interest therein) and to contract for the operation, maintenance, management and development of the Mortgaged Premises;

(2) enter into and perform its obligations under the Loan Documents;

(3) to sell, transfer, service, convey, dispose of, pledge, assign, borrow money against, finance, refinance or otherwise deal with the Mortgaged Premises to the extent permitted under the Loan Documents; and

(4) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies organized under the laws of the State of Illinois that are related or incidental to and necessary, convenient or advisable for the accomplishment of the above mentioned purposes.

b. Limitations on Debt, Actions. Notwithstanding anything to the contrary in the Loan Documents or in any other document governing the formation, management or operation of Mortgagor, Mortgagor shall not:

(1) guarantee any obligation of any other entity, or become obligated for the debts of any other entity or hold out its credit as being available to pay the obligations of any other entity;

(2) engage, directly or indirectly, in any business other than as required or permitted to be performed under this Section;

(3) create or assume any debt other than (A) the Loan and (B) unsecured trade payables incurred in the ordinary course of its business that are related to the ownership and operation of the Mortgaged Premises and which shall (1) not exceed 2% of the outstanding balance of the Loan, (2) not be evidenced by a note, (3) be paid within 60 days, and (4) otherwise expressly be permitted under the Loan Documents;

(4) make or permit to remain outstanding any loan or advance to, or own or acquire any stock or securities of, any other entity, except that Mortgagor may invest in those investments permitted under the Loan Documents;

(5) fullest extent permitted by law, engage in any dissolution, liquidation, consolidation, merger, sale or other transfer of any of its assets outside the ordinary course of Mortgagor's business;

(6) buy or hold evidence of indebtedness issued by any other entity (other than cash or investment-grade securities);

(7) form, acquire or hold any subsidiary (whether corporate, partnership, limited liability company or other) or own any equity interest in any other entity;

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(8) own any asset or property other than the Mortgaged Premises (or an undivided interest therein) and incidental personal property necessary for the ownership or operation of the Mortgaged Premises; or

c. Separateness Covenants. In order to maintain its status as a separate entity and to avoid any confusion or potential consolidation with any other entity, Mortgagor represents and warrants that in the conduct of its operations since its organization it has observed, and covenants that it will continue to observe, the following covenants:

- (1) maintain books and records and bank accounts separate from those of any other entity;
- (2) maintain its assets in such a manner that it is not costly or difficult to segregate, identify or ascertain such assets;
- (3) comply with all organizational formalities necessary to maintain its separate existence;
- (4) hold itself out to creditors and the public as a legal entity separate and distinct from any other entity;
- (5) separate financial statements, showing its assets and liabilities separate and apart from those of any other entity and not have its assets listed on any financial statement of any other entity; except that Mortgagor's assets may be included in a consolidated financial statement so long as appropriate notation is made on such consolidated financial statements to indicate the separateness of Mortgagor and to indicate that Mortgagor's assets and credits are not available to satisfy the debts and other obligations of any other entity;
- (6) prepare and file its own tax returns separate from those of any other entity to the extent required by applicable law, and pay any taxes required to be paid by applicable law;
- (7) allocate and charge fairly and reasonably any common employee or overhead shared with other entities;
- (8) not enter into any transaction with other entities except on an arm's-length basis on terms which are intrinsically fair and no less favorable than would be available for unaffiliated third parties, and pursuant to written, enforceable agreements;
- (9) conduct business in its own name, and use separate stationery, invoices and checks;
- (10) not commingle its assets or funds with those of any other entity;
- (11) not assume, guarantee or pay the debts or obligations of any other entity;
- (12) any known misunderstanding as to its separate identity;

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- (13) not permit any other entity to guarantee or pay its obligations (other than limited guarantees and indemnities set forth in the Loan Documents);
- (14) not make loans or advances to any other entity;
- (15) pay its liabilities and expenses out of and to the extent of its own funds;
- (16) maintain a sufficient number of employees in light of its contemplated business purpose and pay the salaries of its own employees, if any, only from its own funds;
- (17) maintain adequate capital in light of its contemplated business purpose, transactions and liabilities; provided however, that the foregoing shall not require any equity owner to make additional capital contributions to Mortgagor; and
- (18) cause the managers, officers, employees, agents and other representatives of Mortgagor to act at all times with respect to Mortgagor consistently and in furtherance of the foregoing and in the best interests of Mortgagor.

6.15. **No District Inclusion.** To Mortgagor's knowledge, the Mortgaged Premises is not within the boundaries of any quasi-governmental entity, including without limitation, any special district or metropolitan district, with the power to assess taxes or assessments against the Mortgaged Premises, except as identified in the Permitted Exceptions or as identified on the tax certificate provided to Lender or its counsel in connection with the loan evidenced by the Note.

6.16. **Performance of Loan Agreement.** The funds advanced and secured by this Agreement shall be requisitioned and used solely for the loan fees, development and construction costs and interest on the Note and for such other purposes described in and strictly in accordance with the Loan Agreement. The terms, provisions and conditions of the Loan Agreement are hereby incorporated herein and made a part hereof by this specific reference and are to remain in full force and effect as terms, provisions and conditions hereof. In the event that the Mortgagor shall fail to comply with the Loan Agreement beyond all notice and cure periods provided therein, Mortgagee may at its option cause the entire Indebtedness secured by this Agreement to become immediately due and payable, and in the event of such Event of Default of Mortgagor hereunder or under the Loan Agreement and whether or not Mortgagee shall cause the Indebtedness to become immediately due and payable, Mortgagee is hereby invested with full and complete authority to enter upon the Mortgaged Premises, to employ watchmen to protect the Mortgaged Premises from depredation or injury and to preserve and protect the personal property and equipment therein. All sums advanced by the Mortgagee (exclusive of the advances of the principal of the indebtedness secured hereby) shall be secured hereby as a further charge and lien upon the Mortgaged Property and secured hereby, and shall be due and payable within ten (10) business days of receipt of written demand.



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## 7. TERMINATION OF MORTGAGE

If Mortgagor shall well and truly pay, or cause to be paid, all of the Indebtedness and does keep and perform each and every covenant, duty, condition, and stipulation herein imposed on Mortgagor, in the Note contained, or in any other document securing, evidencing or relating to the Indebtedness, then this Agreement and the grants and conveyances contained herein shall terminate, and the Mortgaged Property shall revert to Mortgagor and the entire estate, right, title and interest of the Mortgagee will thereupon cease; and the Mortgagee in such case shall, upon the request of Mortgagor and at Mortgagor's cost and expense, deliver to Mortgagor proper documents acknowledging satisfaction of this document; otherwise, this Agreement shall remain in full force and effect.

## 8. EVENTS OF DEFAULT

8.1 **Acts Constituting Default.** Mortgagor will be in default under this Agreement upon the happening of any of the following events or conditions, or the happening of any other Event of Default as defined elsewhere in this Agreement (herein collectively referred to as an "Event of Default"):

a. Mortgagor fails to make when due any payment of principal or interest under the Indebtedness, or otherwise breaches any of the provisions contained in the Note and fails to cure the breach within any applicable cure period.

b. Mortgagor fails to keep or perform any of the covenants, conditions or stipulations contained in this Agreement or in any documents securing, evidencing or relating to the Indebtedness other than any event or condition specified in Sections 8.1(a), 8.1(c), 8.1(d), 8.1(e), 8.1(f), 8.1(g), 8.1(h), 8.1(i) or 8.1(j); provided, however, that any such potential default shall not ripen into an Event of Default unless and until such potential default remains uncured after the expiration of any applicable cure period set forth in Section 8.2 below.

c. Any warranty or representation made in this Agreement by Mortgagor is determined by Mortgagee to be untrue in any material respect.

d. Any person, corporation, or other entity that (a) owns all or any part of Mortgagor or of the Mortgaged Property, (b) is liable for the payment of all or any part of the Indebtedness, or (c) is a guarantor of all or any part of the Indebtedness (1) admits in writing its inability to pay its debts generally as they become due, (2) files a petition or answer in bankruptcy as a Debtor or seeking reorganization or an arrangement or otherwise to take advantage of any State or Federal bankruptcy or insolvency law, (3) makes an assignment for the benefit of creditors, (4) files a petition for or consents to the appointment of a receiver for substantially all of its assets, or (5) without its consent has a petition filed in any bankruptcy or insolvency proceeding or an order, decree or judgment entered by a court of competent jurisdiction appointing a receiver of the Mortgaged Property or approving a petition filed against it seeking reorganization or an arrangement

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of it or its assets or debts under any bankruptcy or insolvency law and such petition, order, decree or judgment is not dismissed, vacated, set aside or stayed within sixty (60) days from the date of entry.

e. Except for Permitted Transfers, Mortgagor sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting these provisions or any similar references in this Agreement, the granting of a security interest in) Mortgaged Property, the Collateral or any portion thereof or interest therein, or, except for Permitted Transfers, Mortgagor or any general partner of Mortgagor sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting any of the provisions of this subparagraph, the granting of a security interest in) any part of its interest in Mortgagor, except for Permitted Transfers, or any such event occurs involuntarily to Mortgagor or such general partner of Mortgagor, all without the prior written consent of Mortgagee.

f. The authority and right of Mortgagor to do business in the State of Illinois is terminated, withdrawn or cancelled.

g. Mortgagor's existence as a legal entity for any reason, by operation of law or otherwise, is terminated.

8.2 **Curable Nonmonetary Default** In the event of any Event of Default defined in Sections 8.1(a) or 8.1(b) above which is capable of cure and which is not curable solely by the payment of money (sometimes a "Curable Nonmonetary Default") and provided that the granting of such cure period does not jeopardize the lien of this Agreement or the value of the Mortgaged Property then the Mortgagee shall not hold a foreclosure sale or terminate Mortgagor's license, if any, to collect rents pursuant to any assignment of rents for such Curable Nonmonetary Default until after Mortgagee provides Mortgagor with written notice of such Curable Nonmonetary Default and such Curable Nonmonetary Default remains uncured on the earlier of (a) the thirtieth (30th) day (or such longer number of days, up to a maximum of sixty (60) days, as may be reasonably necessary to cure the Curable Nonmonetary Default, provided that Mortgagor continuously and diligently pursues such cure) after such written notice, or (b) any comparable cure period permitted by the applicable tenant leases, insurance policies or any other contracts.

## 9. **RIGHTS OF MORTGAGEE UPON DEFAULT**

9.1 **Acceleration of Indebtedness.** Upon occurrence of an Event of Default or at any time thereafter, Mortgagee may at its option and without demand or notice to Mortgagor, accelerate the maturity of the Note and declare the Indebtedness secured hereby immediately due and payable. Unless otherwise provided herein, Mortgagor hereby waives presentment for payment, protest and demand, notice of protest, demand, dishonor and default, notice of intent to declare the Indebtedness immediately due and payable and notice of the declaration that the Indebtedness is immediately due and payable, and any and all rights Mortgagor may have to a hearing before any judicial authority prior to the exercise by Mortgagee of any of its rights under this Agreement or any other agreements securing or executed in connection with the Indebtedness, all to the extent authorized by law.

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9.2 **Operation of Property by Mortgagee.** Upon the occurrence of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on the Mortgagee, the Mortgagee (or any person, firm or corporation designated by the Mortgagee) may, but will not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude Mortgagor therefrom, and hold, use, administer, manage and operate the same to the extent that Mortgagor could do so. If the Mortgaged Property includes any type of business enterprise, the Mortgagee may operate and manage such business without any liability of Mortgagee to Mortgagor resulting therefrom (excepting failure to use ordinary care in the operation and management of the Mortgaged Property); and the Mortgagee or Mortgagee's designee may collect, receive and receipt for all proceeds accruing from such operation and management, and, at Mortgagor's expense, make repairs and purchase needed additional property, and exercise every power, right and privilege of Mortgagor with respect to the Mortgaged Property. When and if the expenses of such operation and management have been paid and the Indebtedness has been paid, the Mortgaged Property shall be returned to Mortgagor (providing there has been no foreclosure sale). This provision is a right created by this Agreement and cumulative to, and is not in any way to affect, the right of the Mortgagee to the appointment of a receiver given the Mortgagee by law.

9.3 **Judicial Proceedings and Other Rights.** Upon the occurrence of an Event of Default, or at any time thereafter, Mortgagee may proceed by suit for a foreclosure of its lien on the Mortgaged Property in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15 1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act"); sue Mortgagor for damages arising out of said default or breach or for specific performance of any provision contained herein; invoke Mortgagee's power of sale and/or enforce any other legal or equitable right available to Mortgagee. In any foreclosure sale, the Mortgaged Property may be sold in one or more parcels, lots or groups (including mixtures of personal and real property, or separately, any provision of law to the contrary notwithstanding).

9.4 **Sale of Collateral.** On the happening of any Event of Default or at any time thereafter, Mortgagee shall have and may exercise with respect to the Collateral all rights, remedies and powers of a secured party under the UCC with reference to the Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the UCC after default by Mortgagor without regard to preservation of the Collateral or its value and without the necessity of a court order, and apply the proceeds thereof first toward the payment of all costs and expenses and reasonable attorneys' fees incurred by Mortgagee, and the balance toward the payment of the Indebtedness whether or not then due, and in such order or manner as Mortgagee may elect. In the Event of Default, Mortgagee shall have, among other rights, the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same, without being guilty of trespass and without liability for damages occasioned thereby, and to take any action deemed appropriate or desirable by Mortgagee, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale or lease or other use or

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disposition as authorized herein. To the extent permitted by law, Mortgagor expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of Mortgagor or the formalities prescribed by law relative to the sale or disposition of the Collateral or to the exercise of any other right or remedy of Mortgagee existing after default. To the extent that such notice is required and cannot be waived, Mortgagor agrees that if such notice is mailed postage prepaid to Mortgagor at the address shown herein at least five (5) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

Mortgagor agrees that a commercially reasonable manner of disposition of the Collateral shall include, without limitation and at the option of the Mortgagee, the sale of the Collateral, in whole or in part, concurrently with any foreclosure sale of the Mortgaged Property.

Mortgagor agrees that Mortgagee may proceed to sell or dispose of both the real and personal property covered herein in accordance with the rights and remedies granted under this Agreement with respect to the real property covered hereby. Mortgagor hereby grants Mortgagee the right, at its option, after default by Mortgagor to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the Indebtedness, whether or not then due, and in such order and manner as Mortgagee may elect. Mortgagor covenants and agrees that all recitals and any document transferring, assigning, leasing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by Mortgagee and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred. All rights to a marshalling of the assets of Mortgagor, including such rights with respect to the Collateral and the Mortgaged Premises, are hereby waived.

Mortgagor hereby authorizes and empowers the Mortgagee to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold in foreclosure sales good and sufficient deeds of conveyance thereto by fee simple title, with covenants of general warranty, subject to Permitted Exceptions and the title of such purchaser or purchasers when so made by Mortgagee, Mortgagor binds itself to warrant and forever defend.

9.5 **Loan Proceeds; Setoff.** Upon the occurrence of any Event of Default or at any time thereafter, Mortgagee (a) may terminate its obligation, if any, to disburse loan proceeds to Mortgagor; (b) may, and is hereby authorized by Mortgagor, at any time or from time to time, to the fullest extent permitted by law, without advance notice to Mortgagor (any such notice being expressly waived by Mortgagor) to setoff and apply any and all sums held by Mortgagee, any Indebtedness of Mortgagee to Mortgagor, any and all claims by Mortgagor against Mortgagee, against any obligations of Mortgagor hereunder, and against claims by Mortgagee against Mortgagor, whether or not such obligations or claims of Mortgagor are matured and whether or not Mortgagee has exercised any other remedies hereunder.

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9.6 **Receivership.** In any action or proceeding to foreclose against the Mortgaged Property, or upon actual or threatened waste to any part of the Mortgaged Property, Mortgagee may apply, after notice to Mortgagor, for the appointment of a receiver (“Receiver”) of the Mortgaged Property. Unless prohibited by law, such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Mortgagor at the time of application for such Receiver and without regard to the then value of the Mortgaged Property, and Mortgagee may be appointed as Receiver. The Receiver shall have the power to collect the rents, issues and profits of the Mortgaged Property during the pendency of the foreclosure and, in case of a sale and deficiency during the full statutory period of redemption, whether there be redemption or not, as well as during any future times, if any, when the Mortgagor, except for the intervention of such Receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property during the whole of said proceeding. All sums of money received by the Receiver from such rents and income, after deducting therefrom the reasonable charges and expenses paid or incurred in connection with the collection and disbursement thereof, shall be applied to the payment of the Indebtedness or applied to remedy any default hereunder as Mortgagee may direct. Mortgagor, if requested to do so, will consent to the appointment of any such Receiver as aforesaid.

9.7 **Sale of Property.** The following provisions apply to any sale of the Mortgaged Property pursuant to the UCC or pursuant to any judicial proceeding, power of sale or other sale permitted by law.

a. **Application of Proceeds of Sale.** Unless Mortgagee elects otherwise, the purchase money or proceeds of any such sale shall be applied: first, to the payment of any Receiver’s fees and expenses; second, to all other charges, costs, expenses and advances (including, but not limited to, expenses for operation of the Mortgaged Property) paid or incurred by Mortgagee pursuant to this Agreement or the Note with interest thereon at the default rate specified in the Note; third, to all unpaid interest accrued on any of the Indebtedness; fourth, to the principal amount outstanding of the Indebtedness; and the balance, if any, to Mortgagor or such other person or persons entitled thereto by law.

b. **No Defense; Waiver.** Failure to join or to provide notice to tenants of the Mortgaged Property as defendants in any foreclosure action or suit shall not (a) constitute a defense to such foreclosure; (b) preclude the Mortgagee from obtaining a deficiency judgment or otherwise reduce or diminish the amount of any such judgment in any manner whatsoever; or (c) give rise to any claims by the Mortgagor, or any person claiming through or under the Mortgagor, against the Mortgagee.

c. **Prerequisites of Sales.** In case of any foreclosure sale of the Mortgaged Property, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder, all statements of facts, or other recitals therein made as to the nonpayment of money secured or as to the action of the Mortgagee to enforce this Agreement, or as

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to the advertisement of sale, or time, place and manner of sale, or as to any other preliminary fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

d. **Waiver of Laws.** Mortgagor, for itself and its successors and assigns, hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, (a) the benefit of any and all valuation and appraisal laws, and (b) any applicable homestead or dower laws.

## 10. **USE OF INSURANCE PROCEEDS**

10.1 **Holding of Proceeds.** Notwithstanding the provisions of Section 6.3, any insurance proceeds paid to Mortgagee will be first applied in payment of the expenses, if any, incurred by Mortgagee in the collection of said insurance proceeds and the balance, if any, will be held and disbursed by Mortgagee in accordance with the following provisions:

a. Should (a) there exist an Event of Default at the time of the casualty or should there occur at any time thereafter an Event of Default; (b) any insurance proceeds be remaining after the completion of all restoration work; or (c) Mortgagor fail to comply with the requirements for disbursing the insurance proceeds, then in any of the said events, Mortgagee may, at its sole option, apply the insurance proceeds (or any portion thereof) to the Indebtedness, in any order and whether due or not, and/or to the restoration of the Mortgaged Property, and/or release the insurance proceeds (or any portion thereof) to Mortgagor, but any such application or release shall not cure or waive any such Event of Default.

b. If subparagraph (a) is not applicable and the insurance proceeds have not been disbursed under the provisions of subparagraph (a) hereof, or if under subparagraph (a) Mortgagee elects to permit the insurance proceeds to be used for restoration of the Mortgaged Property, the proceeds will be held and disbursed as follows:

c. Should the insurance proceeds be less than Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), Mortgagor shall immediately commence and complete the work of restoring the damaged property and Mortgagee will disburse the portion of the insurance proceeds to pay actual costs to replace, repair and restore the damaged property to Mortgagor upon (1) completion of the restoration work to a condition satisfactory to Mortgagee, (2) submission of a written report by Mortgagor that all restoration work has been completed, and (3) receipt by Mortgagee of such evidence as Mortgagee may require that all contractors, laborers and suppliers performing work or supplying materials for the repair or restoration work have been fully paid.

d. Should the insurance proceeds equal or be in excess of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00), but less than Five Hundred Thousand and No/100 Dollars (\$500,000.00), Mortgagor shall cause plans and specifications ("Plans") for the restoration of the damaged property to be submitted to Mortgagee for approval. Such approval, or Mortgagee's

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requirements for obtaining such approval, shall be given within five (5) business days after receipt of the Plans by Mortgagee. Upon receipt of Mortgagee's approval, Mortgagor shall forthwith commence and complete the restoration of the damaged property in accordance with the approved Plans. Mortgagee will disburse the portion of the insurance proceeds to pay the actual costs to repair and restore the damaged property to Mortgagor upon (1) completion of the restoration work to a condition satisfactory to Mortgagee, (2) submission of a written report by Mortgagor that all restoration work has been completed, and (3) receipt by Mortgagee of such evidence as Mortgagee may require that all contractors, laborers and suppliers performing work or supplying materials for the restoration work have been completely paid. Mortgagee shall allow partial draws of the proceeds (not to exceed three (3) draws) as portions of the work are completed, based on costs incurred by Mortgagor.

e. If the insurance proceeds are equal or in excess of Five Hundred Thousand and No/100 Dollars (\$500,000.00): (1) Plans for the restoration of the damaged property and a cost estimate will both be prepared by an architect employed by Mortgagor and acceptable to Mortgagee. The Plans and cost estimates will be submitted to Mortgagee for approval. Such approval, or Mortgagee's requirements for obtaining such approval, shall be given within five (5) business days of receipt of the Plans by Mortgagee. Upon receipt of Mortgagee's approval, Mortgagor will promptly commence and diligently pursue the restoration work in accordance with the approved Plans. (2) If prior to the commencement of, or at any time during the restoration work, Mortgagee shall determine that the total cost of the restoration work shall exceed the balance of the insurance proceeds held in its possession, Mortgagor shall immediately pay, in cash, to Mortgagee the amount of such excess costs or shall be required to pay such excess costs using Mortgagor's own funds on a "first-in" basis toward the restoration work. Until the amount of said excess costs is paid to Mortgagee or is expended by Mortgagor on restoration costs, Mortgagee shall not be obligated to disburse any of the insurance proceeds held by it. The insurance proceeds and the amount of excess costs paid by Mortgagor are hereinafter called "Construction Funds." The amount of such excess costs paid by Mortgagor to Mortgagee shall be disbursed prior to the disbursement of any of the insurance proceeds held by Mortgagee. (3) The Construction Funds will be made available to Mortgagor as restoration repair work progresses pursuant to certificates of the architect approved by Mortgagee, submitted not more than once every thirty (30) days. There shall be delivered to Mortgagee such other evidences as Mortgagee may reasonably request, from time to time, during the restoration work, as to the progress of the work, the compliance with the approved Plans, the total cost of restoration work to date of request, the total cost needed to complete the restoration work, lien waivers or evidence of no liens against the Mortgaged Property. If at any time during the course of the restoration work, Mortgagee learns of facts concerning the restoration work which is materially adverse to Mortgagee, or payment or nonpayment of mechanics and materialmen, or inaccuracy of any information furnished with respect to it, Mortgagee may withhold the disbursement of funds until such time as it is prudent to continue to disburse the Construction Funds or, after written notice to Mortgagor and the failure of Mortgagor to cure such adverse condition to Mortgagee's reasonable satisfaction within thirty (30) days, may determine not to make any further disbursements of the Construction Funds and instead to apply all such funds remaining to the

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payment of the Indebtedness then outstanding, whether due or not at such time and in such order as determined by Mortgagee.

f. Mortgagee shall not be required to hold any funds received by it described in this Article 10 in any account special or separate from Mortgagee's general account. No such funds shall be required to be placed in any interest bearing account, and any interest earned thereon shall constitute additional insurance proceeds to be applied as provided in this Agreement.

## 11. SPECIAL CONDITIONS

This document is expressly made subject to the following special conditions.

11.1 **Waiver and Election.** The exercise of any right or remedy by Mortgagee shall not be considered as a waiver of any right or remedy nor shall any acceptance by Mortgagee of Mortgagor's partial payment or partial performance of obligations under the Note or hereunder, nor shall any failure or delay by Mortgagee in exercising any of its rights or remedies as to any Event of Default which may occur, operate as a waiver by Mortgagee of its rights or remedies with respect to the occurrence of any other or further Event of Default or to the recurrence of the same Event of Default.

If any covenant or agreement contained in this Agreement, the Note or any other agreement made in connection with the Indebtedness is breached by Mortgagor and thereafter waived by Mortgagee, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver shall be binding unless it is in writing and signed by Mortgagee. No course of dealing between Mortgagee and Mortgagor shall operate as a waiver of any breach or default by Mortgagor or be deemed to modify the terms of this Agreement, the Note or any other agreement made in connection with the Indebtedness.

11.2 **Usury.** Notwithstanding any provision in this Agreement to the contrary, it is expressly provided that in no case or event should the aggregate amounts, which by applicable law are deemed to be interest with respect to this Agreement, the Note or any document securing the Note ever exceed the "Maximum Nonusurious Rate" or the "Maximum Lawful Rate" (as either term is defined in the Note). In this connection, it is expressly stipulated and agreed that it is the intention of Mortgagee and the Mortgagor to contract in strict compliance with applicable usury laws of the State of Illinois and/or of the United States (whichever permits the higher rate of interest) from time to time in effect. Nothing in this Agreement, the Note or any document securing, evidencing or relating to the Note shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Nonusurious Rate. If under any circumstances the aggregate amounts contracted for, charged or paid with respect to the Note which by applicable law are deemed to be interest, would produce an interest rate greater than the Maximum Nonusurious Rate, the Mortgagor and any other person obligated to pay the Note, stipulates that the amounts will be deemed to have been paid, charged or contracted for as a result of an error on the part of Mortgagor, any other person obligated for the payment of the Note and the Mortgagee and upon discovery of the error or upon notice thereof from the Mortgagor or the party making such payment, the Mortgagee or the party receiving such excess payment shall, at its option,



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refund the amount of such excess payment or credit the excess payment against any other amount due under the Note without prepayment penalty. In addition, all sums paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of monies shall be, to the extent permitted by applicable law, amortized, prorated, allocated and spread through the term of the Note.

11.3 **Enforceability.** If any provision hereof is presently or at any time becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of the Mortgagee to effectuate the provisions hereof.

11.4 **Application of Payments.** If the lien or liens created by this Agreement are invalid or unenforceable as to any part of the Indebtedness or if such lien or liens are invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially unsecured portion of the Indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Indebtedness and all payments made on the Indebtedness, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness which is not secured or not fully secured by the lien or liens created herein.

11.5 **Meaning of Particular Term.** Whenever used, the singular number shall include the plural, the plural the singular and the use of any gender shall include all genders. The words "Mortgagor" and "Mortgagee" shall include their heirs, executors, administrators, successors and assigns.

11.6 **Deleted.**

11.7 **Release or Extension by Mortgagee.** Mortgagee, without notice, may release any part of the Mortgaged Property or any person liable for the Indebtedness without in any way affecting the liens hereof on any part of the Mortgaged Property not expressly released and may agree in writing with any party with an interest in the Mortgaged Property to extend the time for payment of all or any part of the Indebtedness or to waive the prompt and full performance of any term, condition or covenant of any document securing, evidencing or relating to the Indebtedness.

11.8 **Partial Payments.** Acceptance by Mortgagee of any payment of less than the amount due on the Indebtedness shall be deemed acceptance on account only and the failure to pay the entire amount then due shall be and continue to be a default; and at any time thereafter and until the entire amount due on the Indebtedness has been paid, Mortgagee shall be entitled to exercise all rights conferred on it by the terms of this Agreement upon the occurrence of an Event of Default.

11.9 **Titles Not to be Considered.** All section, subsection, paragraph or other titles contained in this Agreement are for reference purposes only and this Agreement shall be construed without reference to said titles.

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11.10 **Construction of Agreement.** This Agreement may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the purposes and agreements herein set forth.

11.11 **Additional Taxes.** Mortgagor agrees that if any state, federal or municipal government, or any of its subdivisions having jurisdiction, shall levy, assess or charge any tax, assessment or imposition upon this Agreement or the credit or indebtedness secured hereby or the Note or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of any of the foregoing (excepting therefrom any income tax on interest payments on the principal portion of the Indebtedness secured hereby) then, Mortgagor shall pay all such taxes to or for Mortgagee as they become due and payable and provided further that in the event of passage of any law or regulation permitting, authorizing or requiring the tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Mortgagor from paying the tax, assessment or imposition, to or for Mortgagee, then all sums hereby secured shall become immediately due and payable at the option of the Mortgagee without prepayment penalty. Mortgagor agrees to exhibit to Mortgagee at any time upon request, official receipts showing payment of all taxes, assessments and charges which Mortgagor is required or elects to pay hereunder. Mortgagor agrees that if the United States Government or any department or bureau thereof shall at any time require revenue stamps to be affixed to the Note or this Agreement, Mortgagor will upon demand pay for stamps in the required amount and deliver them to Mortgagee and Mortgagor agrees to indemnify Mortgagee against liability on account of such revenue stamps, whether such liability arises before or after payment of the Note and whether or not this Agreement shall have been released.

11.12 **Indemnification.** MORTGAGOR AGREES TO INDEMNIFY AND HOLD HARMLESS MORTGAGEE FROM ALL LOSS, DAMAGE AND EXPENSE, INCLUDING REASONABLE ATTORNEYS' FEES AND INVESTIGATORY EXPENSES, 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, EXCEPT TO THE EXTENT CAUSED BY OR ARE ATTRIBUTABLE TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF MORTGAGEE. Mortgagor's obligations pursuant to the foregoing indemnity and covenant to hold harmless shall survive any termination of the estate created by this Mortgage whether as a result of the exercise by Mortgagee of any default remedies available to it at law or in equity or otherwise.

11.13 **Additional Documents.** Mortgagor agrees that upon request of Mortgagee it will from time to time execute, acknowledge and deliver all such additional documents and further assurances of title and will do or cause to be done all such further acts and things as may be reasonably necessary fully to effectuate the intent of this Agreement. The Mortgagor within ten (10) days upon request in person or by mail will furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Agreement, the date to which interest has been paid and stating either that no offsets or defenses exist against the debt secured hereby, or, if such offsets or defenses are alleged to exist, the nature thereof.

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11.14 **Disclosure.** Mortgagor agrees to disclose to Mortgagee upon request, the then ownership of the beneficial interest in any trust which then holds legal title to the Mortgaged Property and shall cause the owner(s) of such beneficial interest to furnish sufficient evidence to Mortgagee for it to determine the identity of all of the parties which compose such owner(s).

11.15 **Subrogation.** In the event the Note is given for money advanced in the payment of a sum owing upon another note or indebtedness, Mortgagor hereby acknowledges that it has and does hereby request Mortgagee to advance the money necessary to satisfy the present owner of said other note or indebtedness, whether or not a release or transfer of said other note or indebtedness be executed by such owner, and Mortgagor hereby contracts and agrees that Mortgagee and Mortgagee's assigns be and they hereby are, subrogated to all the rights, liens, remedies, equities, superior title and benefits held, owned, possessed or enjoyed at any time by any owner or holder of said other note or indebtedness, to secure payment to Mortgagee of the Note hereby secured and said other note or indebtedness, and all liens securing same are hereby extended to the maturity date of the Note hereby secured to additionally secure such Note.

11.17 **Time.** Time is of the essence of this Agreement.

11.18 **Multiple Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original document and which, taken together, constitute one and the same agreement.

## 12. **LIMITATION OF LIABILITY**

Without limiting in any way the obligations of Guarantor under the Guaranty, after Completion of Construction, as such term is defined in the Loan Agreement, Mortgagee's sole recourse against Mortgagor, except as otherwise specifically provided below in the event of a default in the payment of the Note by Mortgagor or any Other Liable Party or any other default under any other Loan Document, shall be against the Mortgaged Property described in this Agreement and such other documents securing, evidencing or relating to the Note, and Mortgagee shall not be entitled to recover any deficiency judgment against Mortgagor if the foreclosure or recovery of such Mortgaged Property is not sufficient to pay the amount owed by Mortgagor hereunder. Notwithstanding the foregoing limitation of liability, Mortgagor shall be fully liable (a) for fraud or misrepresentation made in or in connection with the Note or any document securing, evidencing or relating to the payment of the Note or the apparent purpose of which is to deprive Mortgagee of the security for the Note; (b) for failure to pay taxes, assessments, charges for labor or materials or any other charges which can create liens on any portion of the Mortgaged Property; (c) for the misapplication of (i) proceeds of insurance covering any portion of the Mortgaged Property, or (ii) proceeds of the sale or condemnation of any portion of the Mortgaged Property, or (iii) rentals and security deposits received by or on behalf of Mortgagor subsequent to the date on which Mortgagee gives written notice of foreclosure or the exercise of Mortgagee's assignment of rents; (d) for failure to maintain, repair or restore the Mortgaged Property in accordance with any document securing, evidencing or

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relating to the payment of the Note; (e) for any act or omission knowingly or intentionally committed or permitted by Mortgagor which results in the waste, damage or destruction to the Mortgaged Property, but only to the extent such events are not covered by insurance proceeds which are received by Mortgagee; (f) for the return to Mortgagee of all unearned advance rentals and security deposits paid by tenants of the Mortgaged Property or any guarantors of the leases of such tenants which are not rightfully refunded to or which are forfeited by such tenants or guarantors; (g) for the return of, or reimbursement for, all personal property taken from the Mortgaged Property by or on behalf of Mortgagor, except as permitted under the Agreement; (h) for any liability of Mortgagor pursuant to the provision contained in this Agreement pertaining to hazardous or toxic materials or substances; (i) for any liability of Mortgagor pursuant to the Certificate and Indemnity Regarding Hazardous Substances executed by Mortgagor and delivered to Mortgagee in connection with the indebtedness evidenced by the Note, (j) for any delay, after an Event of Default, in deeding over the Mortgaged Property to Mortgagee, or failure to cooperate in a consensual foreclosure within ninety (90) days of Mortgagee's request; (k) for failure to maintain or alter the Mortgaged Property in compliance with the ADA; and (l) for all court costs and reasonable attorneys' fees incurred in connection with the enforcement of one or more of the above subparagraphs (a) through (k), inclusive. Notwithstanding the foregoing limitation of liability, nothing in this Mortgage, the Note or in any other Loan Document that may limit Mortgagee's recourse against Mortgagor shall alter, waive or otherwise limit any liability or obligation of Guarantor under the Guaranty.

### 13. COMPLIANCE WITH ILLINOIS MORTGAGE LAW.

13.1 If any provision in this Mortgage shall be inconsistent with any provision of the Act, 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.

13.2 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 Paragraph 9.6 of this Mortgage 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.

13.3 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 Indebtedness and/or by the judgment of foreclosure.

13.4 Waiver of Rights. Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for

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the valuation or appraisal of the Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

13.5 Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 - 1601 or other applicable law or replacement statutes;

13.6 Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power or remedy herein or otherwise granted or delegated to the Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted and

13.7 If the Mortgagor is a trustee Mortgagor represents that the provisions of this paragraph (including the waiver of reinstatement and redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

13.8 Collateral Protection Act. Pursuant to the requirements of the Illinois Collateral Protection Act, Mortgagor is hereby notified as follows: Unless the Mortgagor provides the Mortgagee with evidence of the insurance coverage required by this Mortgage, or any of the other Loan Documents, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in the Mortgaged Property or any other collateral for the Indebtedness. This insurance may, but need not protect Mortgagor's interests. The coverage the Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Mortgaged Property or any other collateral for the Indebtedness. 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, or any of the other Loan Documents. If Mortgagee purchases insurance for the Mortgaged Property or any other collateral for the indebtedness or obligations, Mortgagor will be responsible for the costs of that insurance, including interest in any other charges that Mortgagee may lawfully impose 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 the total outstanding Indebtedness. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

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13.9 Mortgagor acknowledges that (i) the Mortgaged Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act and (ii) the entire principal obligation secured hereby constitutes a “loan secured by a mortgage on real estate” within the purview of the operation of 815 ILCS 205/4(1)(1). Mortgagor covenants that the proceeds of the loan evidenced by the Note and secured by this Agreement will be used for business purposes as specified in 815 ILCS 205/4, as amended, and that the principal obligation secured hereby constitutes a business loan which comes within the purview of such Section.

13.10 Maximum Indebtedness. Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed a maximum amount equal to \$24,270,000.00, plus interest thereon; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

13.11 Additional Mortgage Provisions. The following provisions are added to the Mortgage as additional substantive provisions to be deemed inserted as separate grammatical paragraphs:

(a) Maturity Date. The Indebtedness, including all sums required to be paid by the Mortgagor under and with respect to the Loan Agreement or any other Loan Document mature not later than May 1, 2021.

(b) Interest Rate. The Indebtedness bears interest at the rate of 5.50%.

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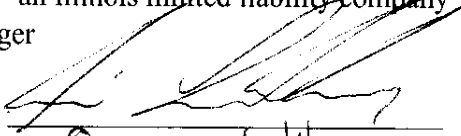
**EXECUTED** effective as of the date first set forth above.

**MORTGAGOR**

SCHAUMBURG HOTEL PARTNERS, LLC,  
an Illinois limited liability company

By: LAKHANY SCHAUMBURG HOTELS, LLC,  
an Illinois limited liability company

Its: Manager

By:   
Name: Somir Lakhany  
Title: Manager

STATE OF Indiana )  
COUNTY OF Allen )

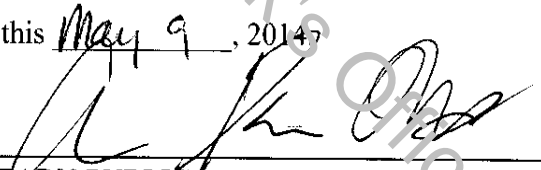
On this May 9, 2014, before me, a Notary Public within and for said County, personally appeared Somir Lakhany to me personally known, who, being by me duly sworn, did acknowledge before me that he is the manager of Lakhany Schaumburg Hotels, LLC, an Illinois limited liability company, the managing member of Schaumburg Hotel Partners, LLC, an Illinois limited liability company, who subscribed to the foregoing instrument as such manager, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this May 9, 2014

ANDREW DAVID WATERS  
NOTARY PUBLIC

SEAL

ALLEN COUNTY, STATE OF INDIANA  
MY COMMISSION EXPIRES MARCH 2, 2022

  
NOTARY PUBLIC

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## EXHIBIT "A"

### MORTGAGED PREMISES

LOT 2 IN GRANITE CITY SUBDIVISION, BEING A PART OF THE NORTHWEST QUARTER OF SECTION 13, TOWNSHIP 41 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED May 20, 2014, AS DOCUMENT NO. 1414016047, IN COOK COUNTY, ILLINOIS.

PROPERTY ADDRESS: 801 N. PLAZA DRIVE, SCHAUMBURG, IL 60173

PROPERTY INDEX NO.: 07-13-103-011-0000

Exhibit to Mortgage, Security Agreement and Financing Statement

313106  
10500-578



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## EXHIBIT "B"

### PERMITTED EXCEPTIONS

- 1) GENERAL REAL ESTATE TAXES FOR THE SECOND INSTALLMENT OF TAX YEAR 2014 AND SUBSEQUENT YEARS WHICH ARE NOT YET DUE AND PAYABLE.
- 2) A TWENTY-EIGHT (28) FOOT BUILDING LINE ALONG THE WEST LINES OF LOTS 1 AND 2 AND THE SOUTH LINE OF LOT 1 AS SHOWN ON THE PLAT OF GRANITE CITY SUBDIVISION RECORDED May 20, 2014 AS DOCUMENT 1414016047.
- 3) A FIFTEEN (15) FOOT UTILITY EASEMENT ALONG THE NORTH, EAST, SOUTH AND WEST LINES OF LOT 1; ALONG THE EAST, SOUTH AND WEST LINES OF LOT 2; AND ALONG THE NORTH, EAST AND WEST LINES OF LOT 3 AS SHOWN ON PLAT OF GRANITE CITY SUBDIVISION RECORDED May 20, 2014 AS DOCUMENT 1414016047.
- 4) A TEN (10) FOOT LANDSCAPE SETBACK ALONG THE WEST AND EAST LINES OF LOTS 1 AND 2 AND THE SOUTH LINE OF LOT 1 AS SHOWN ON PLAT OF GRANITE CITY SUBDIVISION RECORDED May 20, 2014 AS DOCUMENT 1414016047.
- 5) A TWENTY (20) FOOT STORM SEWER EASEMENT OVER THE WEST 20 FEET OF THE EAST 51.75 TO 73.80 FEET OF LOT 2 AS SHOWN ON THE PLAT OF GRANITE CITY SUBDIVISION RECORDED May 20, 2014 AS DOCUMENT 1414016047.

**UNOFFICIAL COPY****EXHIBIT "C"****(Form for annual operating information)****CASH BASIS OPERATING STATEMENT FROM \_\_\_\_\_ TO \_\_\_\_\_**

Loan # \_\_\_\_\_

Borrower: \_\_\_\_\_

Gross Potential Minimum Rent at year end based on 100% Occupancy: \_\_\_\_\_

Income:

Minimum rentals	\$ _____
Overage or percentage rentals	\$ _____
Expense reimbursements	\$ _____
Other (specify)	\$ _____

Total Income \$ \_\_\_\_\_

Operating Expenses:

Taxes (ad valorem)	\$ _____
Utilities	\$ _____
Maintenance & repair	\$ _____
Management	\$ _____
Insurance	\$ _____
Leasing fees	\$ _____
Other (specify)	\$ _____

Total Expense \$ \_\_\_\_\_

Net Operating Income Before Interest and Depreciation \$ \_\_\_\_\_

Debt Service (separate line for each loan) \$ \_\_\_\_\_

Capital expenditures \$ \_\_\_\_\_

Net Cash Flow \$ \_\_\_\_\_

Depreciation \$ \_\_\_\_\_

I certify, as \_\_\_\_\_ of Borrower, the operating information shown above is true and correct.

I certify to the best of my knowledge, that during the period of time covered by this statement (1) no activity has been conducted upon the property in violation of any state, federal or local law, ordinance or regulation pertaining to toxic or hazardous materials, industrial hygiene or environmental conditions and (2) the property complies with the Americans with Disabilities Act.

\_\_\_\_\_  
as \_\_\_\_\_ of Borrower

Sworn and subscribed to me on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Notary Public \_\_\_\_\_

