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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Doc#: 1417119082 Fee: \$112.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/20/2014 03:20 PM Pg: 1 of 38

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN: 17-09-422-008-0000**

Address:

Street: 201 N. CLARK STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60601

Lender: BRIDGEWAY NATIONAL FINANCE (UK) LIMITED

Borrower: GARVEY COURT HOLDINGS, LLC

Loan / Mortgage Amount: \$2,000,000.00

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

FIDELITY NATIONAL TITLE

999011903 NL

Certificate number: B85359BE-17E7-4799-8B6B-0614B90295B3

Execution date: 06/20/2014

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

by

GARVEY COURT HOLDINGS, LLC,

Mortgagor,

to

BRIDGEWAY NATIONAL FINANCE (UK) LIMITED,

Mortgagee,

Relating to Premises in:

Cook County, Illinois

Dated: As of June 20, 2014

**This instrument was prepared by
and after recording should be returned to:**

**James C. Lukas, Esq.
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601**

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MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FIXTURE FILING AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS, FIXTURE FILING AND FINANCING STATEMENT (this "*Mortgage*") is made as of June 20, 2014 by **GARVEY COURT HOLDINGS, LLC**, a Delaware limited liability company, as Mortgagor (the "*Mortgagor*"), with a business address of 250 Pilot Road, Suite 160, Las Vegas, Nevada 89119, for the benefit of **BRIDGEWAY NATIONAL FINANCE (UK) LIMITED**, a private limited company incorporated under the laws of Scotland (together with any successors or assigns, "*Mortgagee*"), with a business address of c/o Dahan & Nowick LLP, 123 Main Street, White Plains, New York 10601.

SECTION 1 RECITALS

WHEREAS, Mortgagor is the owner of that certain real property situated in Cook County in the State of Illinois (the "*State*"), more fully described in **Exhibit A** attached hereto and made a part hereof (the "*Premises*");

WHEREAS, Mortgagor has executed that certain Promissory Note of even date with this Mortgage (together with any and all renewals, amendments, modifications, supplements, restatements, extensions for any period, or increases or rearrangements thereof, the "*Note*"), pursuant to which, Mortgagee has made a loan to the Mortgagor (the "*Loan*"), upon the terms and subject to the conditions set forth in the Note in the aggregate principal amount of up to TWO MILLION DOLLARS AND NO/CENTS (\$2,000,000.00);

WHEREAS, Mortgagor wishes to provide further assurance and security to Mortgagee and, as a condition to Mortgagor providing the financial accommodations evidenced by the Note, Mortgagee is requiring that Mortgagor grant to Mortgagee a security interest in and a mortgage lien on the Property (as hereinafter defined) to secure the Mortgagor's obligations under this Mortgage, the Note and any other documents evidencing the Loan, whether now or hereafter existing, as all of the foregoing may be amended, restated, supplemented or otherwise modified from time to time (collectively hereinafter referred to as the "*Loan Documents*");

WHEREAS, Mortgagor derives substantial direct and indirect economic benefit from the making of the Loan, and for other valuable consideration, the receipt and adequacy of which are hereby acknowledged;

WHEREAS, this Mortgage is being given by Mortgagor to secure (a) the payment and performance of all the obligations arising under each of the Note, this Mortgage, the other Loan Documents (the "*Obligations*"), and (b) the performance of all terms, covenants, conditions, provisions, agreements and liabilities contained in each of the Note, this Mortgage and the other Loan Documents (together with the Obligations, the "*Secured Indebtedness*");

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WHEREAS, capitalized terms used herein without definitions shall have the meanings assigned to such terms in the Note; and

WHEREAS, this Mortgage also secures the payment of and includes all amounts owing with respect to all future or further advances or re-advances of the Loan, regardless of whether proceeds of the Loan have been or shall be disbursed by Mortgagee herein or its successors or assigns, to and for the benefit of Mortgagor, its successors or assigns, to the same extent as if such future advances were made on the date of the execution of this Mortgage. The total amount of Secured Indebtedness secured by this Mortgage may decrease or increase from time to time but the total unpaid principal balance so secured at any one time shall not exceed the lesser of: (a) the maximum principal sum permitted by the laws of the State in which the Premises are located; or (b) Four Million Dollars and No/Cents (\$4,000,000.00) together with interest thereon and any and all disbursements made by Mortgagee for the payment of taxes, assessments, or insurance premiums on the Property covered by the lien of this Mortgage or costs incurred for the protection of the Property and for reasonable attorneys' fees, loan commissions, service charges, liquidated damages, expenses and court costs incurred in the collection of any or all of such sums of money. Such further or future advances shall be considered obligatory advances and the same shall bear interest at the same rate as specified in the Note unless such interest rate shall be modified by subsequent agreement. The parties hereby acknowledge and intend that all advances, including future advances whenever hereafter made, shall be secured by this Mortgage and shall be a lien from the time this Mortgage is recorded.

SECTION 2 THE GRANT

NOW, THEREFORE, in order to secure the payment and performance of the Obligations and the performance of all of the terms, covenants, conditions, provisions, agreements and liabilities contained in the Loan Documents and also to secure the payment of any and all Secured Indebtedness, direct or contingent that may now or hereafter become owing from Mortgagor to Mortgagee and the performance of all other obligations under the Loan Documents and in consideration of Ten Dollars (\$10.00) in hand paid by Mortgagee to Mortgagor, the Recitals above stated, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally and firmly bound, Mortgagor hereby **GRANTS, BARGAINS, SELLS, ASSIGNS, RELEASES, ALIENS, TRANSFERS, REMISES, WARRANTS, DEMISES, CONVEYS** and **MORTGAGES** to Mortgagee and its successors and assigns forever (and grants to Mortgagee and its successors and assigns forever a continuing security interest in and to) the Premises described in **Exhibit A**, and all of its estate, right, claim and interest therein, together with the following described property, all of which other property is pledged primarily on a parity with the Premises and not secondarily (the Premises and the following described rights, interests, claims and property collectively referred to as the "*Property*"):

- (a) all buildings, structures and other improvements of every kind and description now or hereafter erected, situated, or placed upon the Premises (the "*Improvements*"), together with any and all Personal Property (as defined in Paragraph (i) below) and all attachments now or hereafter owned by Mortgagor and located in or on,

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forming part of, attached to, used or intended to be used in connection with, or incorporated in any such Improvements, including all extensions of, additions to, betterments, renewals of, substitutions for and replacements for any of the foregoing;

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

(c) all leasehold estates and right, title and interest of Mortgagor in any and all leases, subleases, management agreements, arrangements, concessions or agreements, written or oral, relating to the use and occupancy of the Premises or the Improvements or any portion thereof, now or hereafter existing or entered into (collectively "*Leases*");

(d) all rents, issues, profits, royalties, revenue, advantages, income, avails, claims against guarantors, all cash or security deposits, advance rentals, deposits or payments given and other benefits now or hereafter derived directly or indirectly from the Premises and Improvements under the Leases or otherwise (collectively "*Rents*"), subject to the right, power and authority to assign, collect and apply the Rents;

(e) all right, title and interest of Mortgagor in and to all options to purchase or lease the Premises or the Improvements or any portion thereof or interest therein, or any other rights, interests or greater estates in the rights and properties comprising the Property now owned or hereafter acquired by Mortgagor;

(f) any interests, estates or other claims of every name, kind or nature, both in law and in equity, which Mortgagor now has or may acquire in the Premises and Improvements or other rights, interests or properties comprising the Property now owned or hereafter acquired;

(g) all rights of Mortgagor to any and all plans and specifications, designs, drawings and other matters prepared for any construction on the Premises or regarding the Improvements;

(h) all rights of Mortgagor under any contracts executed by Mortgagor with any provider of goods or services for or in connection with any construction undertaken

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on or services performed or to be performed in connection with the Premises or the Improvements;

(i) all right, title and interest of Mortgagor in and to all the following tangible personal property ("*Personal Property*") owned by Mortgagor and now or at any time hereafter located in, on or at the Premises or the Improvements and used or useful in connection therewith:

(i) all building materials and equipment located upon the Premises and intended for construction, reconstruction, alteration, repair or incorporation in or to the Improvements now or hereafter to be constructed thereon, whether or not yet incorporated in such Improvements, (all of which shall be deemed to be included in the Property upon delivery thereto);

(ii) all machines, machinery, fixtures, apparatus, equipment or articles used in supplying heating, gas, electricity, air-conditioning, water, light, power, plumbing, sprinkler, waste removal, refrigeration, ventilation, and all fire sprinklers, alarm systems, protection, electronic monitoring equipment and devices;

(iii) all window, structural, maintenance and cleaning equipment and rigs; and

(iv) all fixtures now or hereafter owned by Mortgagor and attached to or contained in and used or useful in connection with the Premises or the Improvements. All such property owned by Mortgagor and placed by it on the Premises or used in connection with the operation or maintenance shall, so far as permitted by law, be deemed for the purposes of this Mortgage to be part of the real estate constituting and located on the Premises and covered by this Mortgage. As to any of the property that is not part of such real estate or does not constitute a "fixture", as such term is defined in the Uniform Commercial Code of the State (the "*Code*"), this Mortgage shall be deemed to be a security agreement under the Code for the purpose of creating hereby a security interest in property, which Mortgagor hereby grants to Mortgagee as "secured party" as defined in the Code. The enumeration of any specific items of Personal Property set forth herein shall in no way exclude or be held to exclude any items of property not specifically enumerated;

(j) all the estate, interest, right, title or other claim or demand which Mortgagor now has or may hereafter have or acquire with respect to (i) proceeds of insurance in effect with respect to the Property and (ii) any and all awards, claims for damages, judgments, settlements and other compensation made for or consequent upon the taking by condemnation, eminent domain or any like proceeding, or by any proceeding or purchase in lieu thereof, of the whole or any part of the Property, including, without limitation, any awards and compensation resulting from a change of grade of streets and awards and compensation for severance damages (collectively "*Awards*").

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TO HAVE AND TO HOLD the Property hereby mortgaged and conveyed, or so intended, together with its rents, issues and profits, unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth.

The Mortgagor hereby represents, warrants and covenants with Mortgagee and with the purchaser at any foreclosure sale that, at the execution and delivery hereof: (a) Mortgagor owns the Property and has good, indefeasible estate therein, in fee simple, (b) the title to the Mortgaged Property is free and clear of all encumbrances, except those accepted by the Mortgagee in connection with any title insurance policy relating to the lien of this Mortgage ("Permitted Encumbrances"), (c) Mortgagor has good and marketable title in and to the Property and good and lawful right to sell, mortgage and convey its interest in the Property, and (d) Mortgagor and its successors and assigns shall forever warrant and defend the Property against all claims and demands whatsoever.

If and when Mortgagor has paid all of the Obligations and there exist no commitments of Mortgagee under the Loan Documents which could give rise to Obligations, then this Mortgage and the estate, right and interest of Mortgagee in and to the Property shall cease and shall be released by Mortgagee delivering to Mortgagor a satisfaction of this Mortgage in proper recordable form at the cost of Mortgagor, but until such time shall remain in full force and effect.

SECTION 3 GENERAL AGREEMENTS

3.1 Payment of Indebtedness. Mortgagor shall pay promptly and when due all amounts owing in respect of the Obligations in the manner provided in the Loan Documents.

3.2 Impositions. Mortgagor shall pay immediately, when first due and owing, all general taxes, special taxes, general assessments, special assessments, water charges, sewer charges, and any other charges, fees, taxes, claims, levies, expenses, liens (including mechanics' liens, materialmen's liens and similar liens) and assessments, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise (all of the foregoing being herein collectively referred to as "*Impositions*"), that may be asserted against the Property or any part thereof or interest therein.

3.3 Intentionally Deleted.

3.4 Insurance and Insurance Proceeds. Mortgagor shall, at its sole expense, obtain for, deliver to, assign and maintain for the benefit of Mortgagee (and for the benefit of such other parties as Mortgagee shall require), until the Obligations are paid in full, such insurance policies as Mortgagee may from time to time require, including:

(a) Insurance against loss to the Improvements caused by fire, lightning, windstorms, vandalism, malicious mischief, and risks covered by the so-called "all perils" endorsement and such other risks as Mortgagee may reasonably require, in amounts (but in no event less than the initial stated principal amount of the Notes) equal

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to the full replacement value of the Improvements, plus the cost of debris removal, with full replacement cost and inflation guard endorsement;

(b) Comprehensive general public liability insurance against bodily injury and property damage in any way arising in connection with the Property with such limits as Mortgagee may reasonably require;

(c) Intentionally deleted;

(d) Broad form boiler and machinery insurance on all equipment and objects customarily covered by such insurance (if any are located at the Premises), providing for full repair and replacement cost coverage, and other insurance of the types and in amounts as Mortgagee may reasonably require, but in any event not less than that customarily carried by persons owning or operating like properties;

(e) During the making of any alterations or improvements to the Property (i) insurance covering claims based on the owner's or employer's contingent liability not covered by the insurance provided in subsection (b) above and (ii) Worker's Compensation insurance covering all persons engaged in making such alterations or improvements;

(f) Insurance against loss or damage by flood or mud slide, if the Premises now, or at any time while the Secured indebtedness remains unpaid, are situated in any area which an appropriate governmental authority designates as a flood or mudslide hazard area or the like, in such amounts as Mortgagee may require, but no amount in excess of the maximum legal limit of coverage shall be so required.

(g) If any part of the Premises is now or hereafter used for the sale or dispensing of beer, wine, spirits or any other alcoholic beverages, so-called "dram shop" or "innkeeper's liability" insurance against claims or liability arising directly or indirectly to persons or property on account of such sale or dispensing of beer, wine, spirits or other alcoholic beverages, including in such coverage loss of means of support, all in amounts as may be required by law or as Mortgagee may specify;

(h) Plate glass, sprinkler leakage and machinery and pressurized vessel insurance;

(i) Professional liability insurance in at least the amount of \$10,000 per occurrence, which shall be written on a "claims made" basis; and

(j) Any other insurance coverage required under the Loan Documents.

Each of the policies described above shall name Mortgagee as mortgagee and lender loss payee under a standard non-contributory mortgagee and lender loss payable clause. All insurance shall be in form and content, and shall be carried in companies, approved in writing by Mortgagee. All policies and renewals (or certificates evidencing the same), marked "paid," shall be delivered to Mortgagee at least thirty (30) days before the expiration of existing policies and shall, at all times prior to and during foreclosure and at any time prior to confirmation of the

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foreclosure sale, have attached standard non-contributing mortgage clauses entitling Mortgagee to collect any and all proceeds payable under such insurance, as well as standard waiver of subrogation endorsements. Mortgagor shall not carry any separate insurance on such improvements concurrent in kind or form with any insurance required hereunder or contributing in the event of loss. Notice of a change in ownership or of occupancy of the Premises shall be immediately delivered by mail to all insurers.

In case of any damage to, or loss or destruction of, the Property or any part thereof (each, a "*Destruction*"), Mortgagor shall promptly send to Mortgagee a notice setting forth the nature and extent of such Destruction. The proceeds of any insurance (other than proceeds of business interruption insurance) payable in respect of such Destruction are hereby assigned and shall be paid to Mortgagee. All such proceeds, less the amount of any expenses incurred in litigating, arbitrating, compromising or settling any claim arising out of such Destruction ("*Net Proceeds*"), shall be applied in accordance with Section 3.6 hereafter.

3.5 Condemnation Awards. In the event of any taking of the Property or any part thereof, in or by condemnation or other eminent domain proceedings pursuant to any law, general or special, or by reason of the temporary requisition of the use or occupancy of the Property or any part thereof, by any governmental authority, civil or military (each, a "*Taking*"), Mortgagor shall immediately notify Mortgagee upon receiving notice of such Taking or commencement of proceedings therefor. All proceeds or any award or payment in respect of any Taking are hereby assigned and shall be paid to Mortgagee and Mortgagor shall take all steps necessary to notify the condemning authority of such assignment. Such award or payment, less the amount of any expenses incurred in litigating, arbitrating, compromising or settling any claim arising out of such Taking ("*Net Award*"), shall be applied in accordance with the provisions of Section 3.6 hereafter.

3.6 Restoration. Provided no Event of Default shall have occurred and be continuing, Mortgagor shall have the right, at Mortgagor's option, to elect that any Net Award or Net Proceeds be applied to payment of amounts outstanding in respect of the Loan or to restore the Premises. In the event Mortgagor elects to restore the Premises, Mortgagor shall give written notice ("*Restoration Election Notice*") of such election to Mortgagee within thirty (30) days of the date Mortgagor receives written notice from Mortgagee of collection by Mortgagee of the Net Proceeds or Net Award, as the case may be, and additionally shall promptly (but in no event later than one hundred twenty (120) days following any Destruction or Taking) furnish the Restoration Documents (as hereinafter defined) to Mortgagee prior to commencing any work to effect Restoration of the Premises. In the event Mortgagee does not receive a Restoration Election Notice within such thirty (30) day period, Mortgagee shall apply the Net Proceeds or Net Award to the prepayment of the Loan. In the event Mortgagor shall elect to restore the Premises, Mortgagee shall release the Net Award or Net Proceeds to Mortgagor and Mortgagor shall, within thirty (30) days following the date of its Restoration Election Notice commence and diligently continue to perform the restoration ("*Restoration*") of that portion or portions of the Property subject to such Destruction or affected by such Taking so that, upon the completion of the Restoration, the Property will be in substantially the same condition and shall be of at least equal value and utility for its intended purposes as the Property was immediately prior to such Destruction or Taking.

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In the event there shall be a Destruction or Taking other than as described in subsection (a) above, Mortgagee shall have the right, at Mortgagee's option, to elect that such Net Award or Net Proceeds be applied to payment of amounts outstanding in respect to the Secured Indebtedness or to restore the Premises. In the event Restoration is elected by Mortgagee, it shall not release any part of the Net Award or the Net Proceeds except in accordance with the provisions of this subsection, and Mortgagor shall, prior to commencing any work to effect Restoration of the Premises, promptly (but in no event later than one hundred twenty (120) days following any Destruction or Taking), furnish to Mortgagee (collectively, the "*Restoration Documents*"):

(a) complete plans and specifications ("*Plans and Specifications*") for the Restoration;

(b) an opinion of counsel to Mortgagor which shall be independent counsel reasonably acceptable to Mortgagee ("*Opinion of Counsel*") or the Architect's Certificate (defined hereinbelow) (a) listing all permits and approvals required by law in connection with the Restoration and (b) stating that all permits and approvals required by law to commence work in connection with the Restoration have been obtained;

(c) a certificate ("*Architect's Certificate*") of an independent, reputable architect or engineer licensed in the State and approved in writing by Mortgagee stating (a) that the Plans and Specifications have been reviewed and approved by the signatory thereto and (b) such signatory's estimate ("*Estimate*") of the costs of completing the Restoration; and

(d) if the Estimate exceeds the Net Proceeds or the Net Award, as the case may be, a surety bond for, guarantee of, or irrevocable letter of credit ("*Letter of Credit*") or other irrevocable and unconditional commitment to provide funds ("*Commitment*") for the payment of such Restoration, payable to or in favor of Mortgagee, which bond, guarantee, Letter of Credit or Commitment (a) shall be signed by a surety or sureties or guarantor(s), as the case may be, acceptable to Mortgagee, in the exercise of Mortgagee's reasonable judgment, and, in the case of a Letter of Credit or Commitment, shall be provided by a bank or other financial institution having capital and surplus in excess of Two Hundred Million Dollars (\$200,000,000) as shown in its most recent available statement of financial condition and (b) shall be in an amount not less than the Estimate minus the amount of the Net Proceeds or the Net Award, as the case may be, then held by Mortgagee for application toward the cost of such Restoration.

(e) Mortgagee shall have the right to review and approve the Plans and Specifications, which approval shall not be unreasonably withheld or delayed. Promptly upon the approval of the Plans and Specifications by Mortgagee, Mortgagor shall commence and diligently continue to perform the Restoration in accordance with such approved Plans and Specifications.

(f) In the event Mortgagee has elected Restoration of the Premises as provided in subsection (b) above, Mortgagee shall apply the Net Proceeds or the Net Award held by Mortgagee on account of any Destruction or Taking to the payment of the cost of any Restoration and shall pay portions of the same, from time to time, to Mortgagor or, at Mortgagee's option, exercised from time to time, directly to the contractors, subcontractors,

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materialmen, laborers, engineers, architects, and other persons rendering services or material for such Restoration, subject to the following conditions:

(g) each request for payment shall be made on five (5) business days' prior notice to Mortgagee and shall be accompanied by an Architect's Certificate stating (A) that all the Restoration work then completed has been done substantially in compliance with the approved Plans and Specifications and in accordance with all provisions of law, (B) the sums requested are required to reimburse Mortgagor for payments by Mortgagor to, or are due to, the contractors, subcontractors, materialmen, laborers, engineers, architects, or other persons rendering services or materials for the Restoration, and that, when added to the sums, if any, previously paid out by Mortgagee, such sums do not exceed the cost of the Restoration to the date of such Architect's Certificate, (C) whether or not the Estimate continues to be accurate, and if not, what the entire cost of such Restoration is then estimated to be, and (D) that the amount of the Net Proceeds or Net Award, as the case may be, remaining after giving effect to such payment, together with the amount of any surety, guarantee, Letter of Credit or Commitment as referred to in subsection (b) above received by Mortgagee, will be sufficient on completion of the Restoration to pay for the same in full (giving in reasonable detail, an estimate by trade of the remaining costs of completion);

(h) each request for payment shall be accompanied by an endorsement or other coverage reasonably acceptable to Mortgagee from a title insurance company reasonably acceptable to Mortgagee which issues mortgagee form title insurance policies, insuring Mortgagee that (A) all mechanic's or similar liens and claims for lien which could arise from that part of the Restoration previously paid for, if any, have been waived, or otherwise insuring over the risk of any such mechanic's or similar liens and (B) there has not been filed with respect to all or any parts of the Property any mechanic's or similar liens or claims for liens that are not discharged of record or being contested in good faith in accordance herein in respect of any part of the Restoration; and

(i) the final request for any payment after the Restoration has been completed shall be accompanied by an Architect's Certificate listing all certificates, permits, licenses, waivers, other documents, or any combination of the foregoing required by law in connection with or as a result of such Restoration and stating that all of the same have been obtained.

(j) In the event there shall be any surplus after application of the Net Award or the Net Proceeds to Restoration of the Premises, such surplus shall belong and be paid to Mortgagee to be credited against the amounts outstanding in respect of the Loan in accordance with the provisions of the Loan Documents.

3.7 Maintenance of Property. Mortgagor shall:

(a) promptly repair, restore, replace or rebuild any portion of the Property which may become damaged, destroyed, altered, removed, severed, or demolished, whether or not proceeds of insurance are available or sufficient for the purpose, with replacements at least equal in quality and condition as previously existed, free from any security interest in, encumbrances on or reservation of title thereto;

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(b) keep the Property in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims except as permitted under the Loan Documents; and

(c) not make any material alterations in the Property, except as permitted or not prohibited by the Loan Documents.

3.8 Prohibited Liens and Transfers. Except as otherwise provided in the Loan Documents, and as provided by operation of the laws of the State, Mortgagor shall not create, suffer, or permit to be created or filed against the Property any mortgage lien or other lien superior or inferior to the lien created by this Mortgage. To the extent that any lien, privilege or other security device is created by operation of law, Mortgagor shall cause such security device to be released as soon as practicable after its creation. Mortgagor may contest any lien claim arising from any work performed, material furnished, or obligation incurred by Mortgagor upon furnishing Mortgagee security and indemnification reasonably satisfactory to Mortgagee for the final payment and discharge of the lien.

Except as otherwise may be provided in the Loan Documents, Mortgagor may not sell, lease or convey all or any part of the Property.

3.9 Stamp Taxes. If at any time the United States government, or any federal, state, or municipal governmental subdivision, requires Internal Revenue or other documentary stamps or levies any tax on this Mortgage or on the Note, or requires payment of any tax in the nature of or comparable to the United States Interest Equalization Tax on the Secured Indebtedness, then Mortgagor shall pay such tax, including interest and penalties, in the required manner.

3.10 Change in Tax Laws. In the event of the enactment, after the date of this Mortgage, of any law of the United States of America, or any state or political subdivision thereof, (i) deducting from the value of the Premises, for the purpose of taxation, the amount of any lien thereon; (ii) imposing upon Mortgagee the payment of all or any part of the taxes, assessments, charges or liens hereby required to be paid by Mortgagor, or (iii) changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or Mortgagor's interest in the Property, or the manner of collection of taxes, so as to affect this Mortgage or the Secured Indebtedness; then Mortgagor, upon demand by Mortgagee, and as required by law, shall pay such taxes, assessments, charges, or liens or reimburse Mortgagee therefor. If, in the opinion of counsel for Mortgagee, it would be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Secured Indebtedness to be and become due and payable sixty (60) days from the giving of such notice. Nothing contained in this Section shall be construed as obligating Mortgagor to pay any portion of Mortgagee's federal, state and local income tax.

3.11 Assignment of Leases and Rents. All right, title, and interest of Mortgagor in and to all present Leases affecting the Property and including and together with any and all future Leases, written or oral, upon all or any part of the Property and together with all of the rents, income, receipts, revenues, issues, avails and profits from or due or arising out of the

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Property are hereby transferred and assigned simultaneously herewith to Mortgagee as further security for the payment of the Obligations. All future Leases affecting the Property shall be submitted by Mortgagor to Mortgagee for its approval prior to execution, which approval shall not be unreasonably withheld or delayed. Each Lease, including all future Leases shall be subordinate to this Mortgage, provided that, upon the request of the Mortgagor and the lessee under any such Lease, Mortgagee shall enter into a Subordination, Nondisturbance and Attornment Agreement (or similar agreement) with such lessee in form and substance reasonably satisfactory to Mortgagee, pursuant to which (i) Mortgagee will agree that so long as such Lease shall be in full force and effect and such lessee is not in default thereunder, Mortgagee will not disturb, pursuant to a foreclosure action or otherwise, such lessee's possession under such Lease, and (ii) such lessee shall agree that if Mortgagee or any future holder of this Mortgage shall become the owner of the Property by reason of foreclosure of the Mortgage or otherwise, or if the Property shall be sold as a result of any foreclosure action or deed in lieu thereof, then such lease shall continue in full force and effect as a direct lease between such lessee and the then owner of the Property. Although it is the intention of the parties that the assignment contained in this Section shall be a present and absolute assignment, it is expressly understood and agreed, anything to the contrary notwithstanding, that Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section until an Event of Default shall occur under this Mortgage. From time to time, Mortgagor shall furnish Mortgagee with executed copies of each of the Leases and shall use commercially reasonable efforts to furnish Mortgagee with estoppel letters from each tenant under each of the Leases in a form satisfactory to Mortgagee within thirty (30) days after Mortgagee's written demand.

Following the occurrence of an Event of Default, (a) Mortgagee shall have the rights and powers as are provided herein, (b) this Mortgage shall constitute a direction to each lessee under the Leases and each guarantor thereof to pay all Rents directly to Mortgagee without proof of the Event of Default, and (c) Mortgagee shall have the authority, as Mortgagor's attorney-in-fact (such authority being coupled with an interest and irrevocable), to sign the name of Mortgagor and to bind Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Property.

If Mortgagor, as lessor under any Lease, shall neglect or refuse to perform, observe and keep all of the covenants, provisions and agreements contained in such Lease, then Mortgagee may perform and comply with any such Lease covenants, agreements and provisions. All costs and expenses incurred by Mortgagee in complying with such covenants, agreements, and provisions shall constitute Secured Indebtedness and shall be payable upon demand with interest at the Default Rate.

Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under any Lease, and Mortgagor shall and does hereby agree, except to the extent of Mortgagee's gross negligence or willful misconduct, to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under any Lease or under or by reason of their assignments and of and from any and all claims and demands whatsoever which may be asserted against it by reason of all alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in such Lease. Should Mortgagee incur any such liability, loss or damage under any Lease or under or by reason of its assignment, or in the defense of any claims or demands, the amount thereof,

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including costs, expenses and reasonable attorneys' fees, shall be secured hereby. Mortgagor shall reimburse Mortgagee therefor immediately upon demand with interest payable at the Default Rate.

3.12 Security Agreement. This Mortgage is hereby deemed to be as well a Security Agreement for the purpose of creating hereby a security interest securing the indebtedness secured hereby in and to the Personal Property. Without derogating any of the provisions of this Mortgage, Mortgagor by this Mortgage:

(a) grants to Mortgagee a security interest in all of Mortgagor's right, title and interest in and to all Personal Property, including, but not limited to, the items referred to above, together with all additions, accessions and substitutions and all similar property hereafter acquired and used or obtained for use on, or in connection with the Property. The Personal Property and all proceeds thereof are intended to be secured hereby; however, such intent shall never constitute an express or implied consent on the part of Mortgagee to the sale of any or all Personal Property;

(b) agrees that the security interest hereby granted by this Mortgage shall secure the payment of the Obligations;

(c) agrees not to sell, convey, mortgage or grant a security interest in, or otherwise dispose of or encumber, any of the Personal Property or any of Mortgagee's right, title or interest therein except as permitted by the Loan Documents without first securing Mortgagee's written consent;

(d) agrees that upon or after the occurrence of any Event of Default under this Mortgage, Mortgagee shall have all rights and remedies granted by law and more particularly the Code, including, but not limited to, the right to take possession of the Personal Property, and for this purpose may enter upon any premises on which any or all of the Personal Property is situated without being deemed guilty of trespass and without liability for damages thereby occasioned (except for damages caused by Mortgagee's gross negligence or willful misconduct), and take possession of and operate said Personal Property or remove it therefrom. Mortgagee shall have the further right to take any action it deems necessary, appropriate or desirable, at its option and in its discretion, to repair, refurbish or otherwise prepare the Personal Property for sale, lease or other use or disposition, and to sell at public or private sales or otherwise dispose of, lease or utilize the Personal Property and any part thereof in any manner authorized or permitted by law and to apply the proceeds thereof toward payment of any costs and expenses, to the extent permitted by law, thereby incurred by Mortgagee and toward payment of the Obligations and all other indebtedness described in this Mortgage, in such order and manner as is provided herein. To the extent permitted by law, Mortgagor expressly waives any notice of sale or other disposition of the Personal Property and any other rights or remedies of a debtor or formalities prescribed by law relative to a sale or disposition of the Personal Property or to exercise any other right or remedy existing after default hereunder; and to the extent any notice is required and cannot be waived, Mortgagor agrees that if such notice is deposited for mailing, postage prepaid, certified mail or registered mail, return receipt requested, to Mortgagor at the address designated

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in the first page of this Mortgage at least fifteen (15) days before the time of sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirements for giving of said notice; provided that if Mortgagor has furnished Mortgagee with notice of a change of address, then any such notice shall not be reasonable unless sent to the new address;

(e) agrees, to the extent permitted by law and without limiting any rights and privileges herein granted to Mortgagee, that Mortgagee may dispose of any or all of the Personal Property at the same time and place upon giving the same notice provided for in this Mortgage, and in the same manner as the non-judicial foreclosure sale provided under the terms and conditions of this Mortgage; and

(f) authorizes Mortgagee to file, in the jurisdiction where this Mortgage will be given effect, financing statements including renewal or confirmation thereof, covering the Personal Property; and at the request of Mortgagee, Mortgagor will join Mortgagee in executing one or more such financing statement including renewal or confirmation thereof, pursuant to the Code in a form reasonably satisfactory to Mortgagee, and will pay the cost of filing the same in all public offices at any time and from time to time wherever Mortgagee deems filing or recording of any financing statements including renewal or confirmation thereof or of this instrument to be desirable or necessary.

3.13 Releases. Without notice and without regard to the consideration therefor, and to the existence at that time of any inferior liens, Mortgagee may release from the lien created hereby all or any part of the Property, or release from liability any person obligated to repay any Obligations, without affecting the liability of any party to any of the Loan Documents (including without limitation any guaranty given as additional security) and without in any way affecting the priority of the lien created hereby. Mortgagee may agree with any liable party to extend the time for payment of any part or all of the Obligations. Such agreement shall not in any way release or impair the lien created by this Mortgage or reduce or modify the liability of any person or entity obligated personally to repay the Obligations, but shall extend the lien created by this Mortgage as against the title of all parties having any interest subject to the Secured Indebtedness in the Property.

3.14 Further Assurances. Mortgagor agrees that, upon request of Mortgagee from time to time, it will, at Mortgagor's sole cost and expense, execute, acknowledge and deliver all such additional instruments and further assurances of title and will do or cause to be done all such further acts and things as may reasonably be necessary to fully effectuate the intent of this Mortgage, including without limitation, reimbursing Mortgagee for the reasonable costs of appraisals of the Property, to the extent that Mortgagee determines in good faith that such appraisals are required by any law or any governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any interpretation thereof, including, without limitation, the provisions of Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989, and any rules promulgated to implement such provisions. In the event that Mortgagor shall fail to do any of the foregoing, Mortgagee may, in its sole discretion, do so in the name of Mortgagor, and Mortgagor hereby appoints Mortgagee as its attorney-in-fact to do any of the foregoing.

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3.15 Environmental Provisions. For the purposes of this Section the following terms shall have the following meanings: (i) the term "*Hazardous Material*" shall mean any material or substance that, whether by its nature or use, is now or hereafter defined as a hazardous waste, hazardous substance, pollutant or contaminant under any Environmental Requirement, or which is toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic or otherwise hazardous and which is or contains petroleum, gasoline, diesel fuel or another petroleum hydrocarbon product; (ii) the term "*Environmental Requirements*" shall collectively mean all applicable present and future laws, statutes, ordinances, rules, regulations, orders, codes, licenses, permits, decrees, judgments, directives of or by any Governmental Authority and relating to or addressing the protection of the environment or human health, or the impact of Hazardous Materials on human health; and (iii) the term "*Governmental Authority*" shall mean the federal government, or any state or other political subdivision thereof, or any agency, court or body of the federal government, any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory or administrative functions.

Mortgagor hereby represents and warrants to Mortgagee that to the best of Mortgagor's knowledge after commercially reasonable inquiry and except as disclosed in writing to Mortgagee: (i) no Hazardous Material is currently located at or has been disposed of on, in, under or about the Property in material violation of any Environmental Requirement or which is likely to have a Material Adverse Effect (as defined hereinbelow); (ii) no releasing, emitting, leaching, discharging, dumping or disposing of any Hazardous Material from the Property onto any other property or from any other property onto or into the Property has occurred or is occurring in violation of any Environmental Requirement or which is reasonably likely to have a Material Adverse Effect; (iii) no notice of violation, lien, complaint, suit, order or other notice with respect to the Property is presently outstanding under any Environmental Requirement which, if not resolved, is reasonably likely to have a Material Adverse Effect; and (iv) the Property and the operation thereof are in material compliance with all applicable Environmental Requirements. The term "*Material Adverse Effect*", as used herein, means a material adverse effect on (a) the business, condition (financial or otherwise), assets, liabilities, property, operations or prospects of Mortgagor, (b) the ability of Mortgagor to perform its obligations under any Loan Document to which it is a party, or (c) the validity or enforceability of any of the Loan Documents or the rights or remedies of Mortgagee hereunder or thereunder.

Mortgagor shall (i) comply, and shall use its best efforts to cause all tenants or other lawful occupants of the Property to comply with all applicable and material Environmental Requirements, (ii) not generate, store, handle, process, dispose of or otherwise use, and will not grant permission to any tenant or other occupant of the Property to generate, store, handle, process, dispose of or otherwise use, any Hazardous Material at, in, on, or about the Property in a manner that is reasonably likely to lead to the imposition on Mortgagor, Mortgagee or the Property of any material liability or lien of any nature whatsoever or lien under any Environmental Requirement, or which is reasonably likely to have a Material Adverse Effect, and (iii) perform all cleanup or corrective action at, in, on or about the Property to the extent required under any Environmental Requirement. Mortgagor shall notify Mortgagee promptly in the event of any spill or other release of any Hazardous Material at, in, on, under or about the Property which is required to be reported to a Governmental Authority under any Environmental Requirement, will promptly forward to Mortgagee copies of any notices received by Mortgagor relating to alleged violations of any Environmental Requirement and will promptly pay when

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due or contest in good faith within the applicable time periods any fine or assessment against Mortgagee, Mortgagor or the Property relating to any Environmental Requirement. If at any time it is determined that the operation or use of the Property by Mortgagor violates any applicable and material Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Property in violation of any applicable Environmental Requirement or that there are Hazardous Materials located at, in, on, under or about the Property which, under any Environmental Requirement, require special handling in collection, storage, treatment or disposal, or any other form of cleanup or corrective action, Mortgagor shall, within thirty (30) days after receipt of notice thereof from any Governmental Authority or from Mortgagee, take, at Mortgagor's sole cost and expense, such actions as may be necessary to fully comply in all material respects with all applicable Environmental Requirements or contest in good faith the requirement to take such actions, provided, however, that if such compliance cannot reasonably be completed within such thirty (30) day period, Mortgagor shall thereafter diligently and expeditiously proceed to fully comply with or contest in good faith in a timely fashion all Environmental Requirements.

If Mortgagor fails to timely take or contest, or to diligently and expeditiously proceed to complete in a timely fashion, any such action as required pursuant to subsection (c) above, Mortgagee may, in its reasonable discretion, make advances or payments toward the performance or satisfaction of any activities required pursuant to any Environmental Requirement, but shall in no event be under any obligation to do so. All sums so advanced and paid by Mortgagee (including, without limitation, reasonable counsel and consultant fees and expenses, investigation and laboratory fees and expenses, and fines or other penalty payments) and all sums advanced or paid in connection with any judicial or administrative investigation or proceeding relating thereto, will immediately, upon demand, become due and payable from Mortgagor and shall bear interest at the Default Rate from the date any such sums are so advanced or paid by Mortgagee until the date any such sums are repaid by Mortgagor to Mortgagee. Mortgagor will execute and deliver, promptly upon request, such instruments as Mortgagee may reasonably deem necessary to permit Mortgagee to take any such action, and such additional notes and mortgages, as Mortgagee may require to secure all sums so advanced or paid by Mortgagee. If a lien is filed against the Property by any Governmental Authority resulting from the need to expend or the actual expending of monies arising from an action or omission, whether intentional or unintentional, of Mortgagor or for which Mortgagor is responsible, resulting in the releasing, spilling, leaking, leaching, pumping, emitting, pouring, emptying or dumping of any Hazardous Material into the waters or onto land located within or without the State where the Property is located, then Mortgagor will, within thirty (30) days from the date that Mortgagor receives notice that such lien has been placed against the Property (or within such shorter period of time as may be specified by Mortgagee if such Governmental Authority has commenced steps to cause the Property to be sold pursuant to such lien), either (a) pay (or otherwise satisfy) the claim and remove the lien; or (b) contest such lien in good faith; or (c) furnish a cash deposit, bond, or such other security with respect thereto as is satisfactory in all respects to Mortgagee and is sufficient to effect a complete discharge of such lien on the Property.

Mortgagee may, at intervals of not less than one year, or more frequently, if Mortgagee reasonably believes that a Hazardous Material or other environmental condition violates or threatens to violate any Environmental Requirement, at the cost and expense of Mortgagor, cause

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an environmental audit of the Property or portions thereof to be conducted to evaluate Mortgagor's compliance with the provisions of this Section, and Mortgagor shall cooperate in all reasonable ways with Mortgagee in connection with any such audit. If such audit discloses that a violation of an Environmental Law exists or if such audit was required or prescribed by law, regulation or governmental or quasi-governmental authority, Mortgagor shall pay all costs and expenses incurred in connection with such audit; otherwise, the costs and expenses of such audit shall, notwithstanding anything to the contrary set forth in this Section, be paid by Mortgagee.

Except for: (a) any Claims (as hereinafter defined) arising as a result of the gross negligence or willful misconduct of Mortgagee during the term of this Mortgage; or (b) any Claims arising as a result of any acts of Mortgagee or its successors and assigns or the occurrence of any acts by any third parties after Mortgagee or its successors and assigns take possession of the Property, in the event Mortgagee takes possession of the Property after an Event of Default, Mortgagor will defend, indemnify, and hold harmless Mortgagee, and its employees, agents, officers, and directors, from and against any and all claims, demands, penalties, causes of action, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, foreseen or unforeseen, contingent or otherwise, including, without limitation, reasonable counsel and consultant fees and expenses, investigation and laboratory fees and expenses, court costs, and litigation expenses (all of the foregoing collectively for purposes of this Section the "Claims"), arising out of, or in any way related to: (i) any breach by Mortgagor of any of the provisions of this Section; (ii) the presence, disposal, spillage, discharge, emission, leakage, release, or threatened release of any Hazardous Material which is at, in, on, under, about, from or affecting the Property, including, without limitation, any damage or injury resulting from any such Hazardous Material to or affecting the Property or the soil, water, air, vegetation, buildings, personal property, persons or animals located on the Property, or in any other property or otherwise; (iii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to any such Hazardous Material; (iv) any lawsuit brought or threatened, settlement reached, or order or directive of or by any Governmental Authority relating to such Hazardous Material; or (v) any violation of any Environmental Requirement or any policy or requirement of Mortgagee hereunder. The aforesaid indemnification shall, notwithstanding any exculpatory or other provision of any other document or instrument now or hereafter executed and delivered in connection with the loan evidenced by the Note and secured by this Mortgage, constitute the personal recourse undertakings, obligations and liabilities of Mortgagor, and shall survive the foreclosure or satisfaction of this Mortgage and the discharge of Mortgagor's other Obligations hereunder.

ARTICLE 4 EVENTS OF DEFAULT AND REMEDIES

4.1 Event of Default. Each of the following shall constitute an event of default ("*Event of Default*") under this Mortgage:

- (a) Failure of Mortgagor to pay any amount due under the Note when due thereunder.
- (b) Failure of Mortgagor to perform or observe any other covenant, agreement, representation, warranty or other provision contained in this Mortgage within thirty (30) days

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after written notice of the default from Mortgagee to Mortgagor, provided that if such violation is curable but is not reasonably curable within such thirty (30) days but the Borrower commences a cure within such thirty (30) days and diligently pursues a cure, such violation shall not constitute an Event of Default if cured within ninety (90) days following such initial notice.

(c) The occurrence of any default under the Senior Loan Documents (as defined in Section 5.1) beyond any applicable cure period.

4.2 Acceleration of Maturity. Following the occurrence of an Event of Default, the Obligations shall become due and payable in accordance with the terms of the Note. Upon acceleration, Mortgagee may immediately proceed to foreclose this Mortgage and/or exercise any right, power or remedy provided by this Mortgage or any of the Loan Documents or by law or in equity conferred and pursue all remedies afforded to a mortgagee under and pursuant to applicable law.

4.3 Remedies Cumulative and Non-Waiver. No remedy or right of Mortgagee hereunder or under the Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy. Each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on the occurrence of any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different nature, nor shall it extend or affect any grace period. Every remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Mortgagee. All obligations of the mortgagor, and all rights, powers and remedies of Mortgagee shall be in addition to, and not in limitation of, those provided by law or in any Loan Document or any other written agreement or instrument relating to any of the Obligations or any security therefor.

4.4 Litigation Expenses. In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Mortgagee under the other Loan Documents, or in any other proceeding in connection with any of the Loan Documents or any of the Property in which Mortgagee is named as a party, there shall be allowed and included, as additional indebtedness, in the judgment or decree resulting all related expenses paid or incurred by or on behalf of Mortgagee. Such expenses shall include: reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, survey costs, and costs of procuring all abstracts of title, title searches and examinations, title insurance policies, and any similar data and assurances with respect to title to the Property as Mortgagee may deem reasonably necessary either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to such decree the true condition of the title to or value of the Premises or the Property. All foregoing expenses, and such expenses as may be incurred in the protection of any of the Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation affecting the Loan Documents or the Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding (which may be estimated as to items to be expended after entry of such judgment or decree), shall be due and payable by Mortgagor upon demand therefor with interest thereon at the Default Rate.

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4.5 Mortgagee's Performance of Mortgagor's Obligations. Following the occurrence of an Event of Default, Mortgagee, either before or after acceleration of the Obligations or the foreclosure of the lien hereof and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein, in the Note, any of the Loan Documents or any document or instrument related thereto which is required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee; and Mortgagee may, but shall not be required to, make full or partial payments of principal or interest on any permitted prior deed of trust, this Mortgage or any encumbrances and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises, or contest any Impositions and may, but shall not be required to, complete construction, furnishing and equipping of the Improvements upon the Premises and rent, operate and manage the Premises and such Improvements and pay operating costs and expenses, including management fees, of every kind and nature in connection therewith, so that the Premises and Improvements shall be operational and usable for their intended purposes. All monies paid for any of the purposes herein authorized, and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees and any other monies advanced by Mortgagee to protect the Premises and the lien hereof, or to complete construction, furnishing and equipping or to rent, operate and manage the Premises and such Improvements or to pay any such operating costs and expenses thereof or to keep the Premises and Improvements operational and usable for their intended purposes, shall constitute Obligations, whether or not they exceed the amount of the Notes, and shall become due and payable upon demand and with interest thereon at the Default Rate. Mortgagee, in making any payment hereby authorized: (a) for the payment of Impositions, may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, discharge, compromise or settlement of any other prior lien, may do so without inquiry as to the validity or amount of any claim or lien which may be asserted; or (c) for the completion of construction, furnishing or equipping of the Improvements or the Premises or the rental, operation or management of the Premises or the payment of operating cost and expenses thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate and may enter into such contracts therefor as Mortgagee may deem appropriate or may perform the same itself.

Mortgagee shall have the right, but not the obligation, to make protective advances with respect to the Property for the payment of taxes, assessments, insurance premiums, repairs, maintenance and other costs incurred in or for the protection of the Property, as contemplated by Subsection (b)(5) of Section 15-1302 of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et. seq. (as amended from time to time, the "*Act*"), and such protective advances, together with interest thereon at the Default Rate from the date of each such advance until it is repaid in full, shall be secured by this Mortgage to the fullest extent and with the highest priority contemplated by such Section 15-1302. All advances, disbursements and expenditures (collectively "*Advances*") made by Mortgagee after an Event of Default, before and during foreclosure, prior to sale, and where applicable, after sale, for the following purposes, including interest thereon at the Default Rate, are hereinafter referred to as "*Protective Advances*", and shall be deemed to include:

- (1) Advances pursuant to this Section of the Mortgage;

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- (2) Any amount expended by Mortgagee in Restoring the Property in excess of the actual or estimated proceeds of insurance or condemnation, which excess shall constitute additional Obligations;
- (3) Advances in accordance with the terms of this Mortgage to: (a) protect, preserve or restore the Property; (b) preserve the lien of this Mortgage or the priority thereof; or (c) enforce this Mortgage;
- (4) When due installments of real estate taxes and other impositions; other obligations authorized by this Mortgage; or with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, all as referred to in this Section of this Mortgage and in Section 15-1505 of the Act;
- (5) Attorneys' fees and other costs incurred in connection with: (a) the exercise of Mortgagee's rights to make Protective Advances; (b) the foreclosure of this Mortgage as referred to in Sections 1504(d)(2) and 15-1510 of the Act; (c) any other litigation or administrative proceeding relating to the Property to which Mortgagee may be or become or be threatened or contemplated to be a party, without fault on its part, including probate and bankruptcy proceedings; or (d) in the preparation for the commencement or defense of any such suit or proceeding; including filing fees, appraisers' fees, outlays for documents and expert evidence, witness fees, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of judgment) of procuring all such abstracts of title, title charges and examinations, foreclosure minutes, title insurance policies, appraisals, and similar data and assurances with respect to title and value as Mortgagee may deem reasonably necessary either to prosecute or defend such suit or in case of foreclosure, to evidence to bidders at any sale which may be had pursuant to the foreclosure judgment the true condition of the title to or the value of the Property;
- (6) Mortgagee's fees and costs arising between the entry of judgment of foreclosure and the confirmation hearing, as referred to in Subsection (b)(1) of Section 15-1508 of the Act;
- (7) Payment by Mortgagee of any Impositions as may be required by this Mortgage;
- (8) Mortgagee's Advances of any amount required to make up a deficiency in deposits for installments of Impositions as may be required by this Mortgage;
- (9) Expenses deductible from proceeds of the sale referred to in Subsections (a) and (b) of Section 15-1512 of the Act; and
- (10) Expenses incurred and expenditures made by Mortgagee for any one or more of the following: (a) premiums upon casualty and liability insurance made by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required without regard to the limitation to maintaining insurance in effect at the time any

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receiver, deed of trust beneficiary or Mortgagee takes possession of the Property imposed by Subsection (c)(1) of Section 15-1704 of the Act; (b) expenditures in connection with Restoring the Property in excess of available insurance proceeds or condemnation awards; (c) payments required or deemed by Mortgagee to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (d) operating deficits incurred by Mortgagee as a deed of trust beneficiary or Mortgagee in possession or reimbursed by Mortgagee to any receiver; and (e) all amounts paid to any public authority for the use or occupancy of any street, alley, or public way.

All Protective Advances shall constitute Obligations and shall become immediately due and payable without notice and with interest thereon until paid at the Default Rate. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded.

4.6 Right of Possession. In any case in which Mortgagee has a right to institute foreclosure proceedings (whether or not the entire principal sum secured hereby becomes immediately due and payable or whether before or after the institution of foreclosure proceedings or whether before or after judgment thereunder and at all times until the confirmation of sale) and upon Mortgagee's request to the court, Mortgagor shall, immediately upon Mortgagee's demand, surrender to Mortgagee, and Mortgagee shall be entitled to take actual possession of the Property or any part thereof, personally or by its agent or attorneys. Mortgagee may enter upon and take and maintain possession or may apply to the court in which a foreclosure is pending to be placed in possession of all or any part of the Property, together with all documents, books, records, papers, and accounts of Mortgagor or the then owner of the Property relating thereto. Mortgagee may exclude Mortgagor, such owner, and any agents and servants from the Property. As attorney-in-fact or agent of Mortgagor or such owner, or in its own name Mortgagee may hold, operate, manage, and control all or any part of the Property and conduct the business thereof, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as it may deem proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Property, including actions for recovery of rent, actions in forcible entry and detainer, and actions in distress for rent, all without notice to Mortgagor. Mortgagee shall be entitled to the remedies described in this Paragraph to the extent such remedies are permitted by applicable law.

4.7 Priority of Rent Payments. Any rents, issues, deposits, profits, and avails of the Property received by Mortgagee after taking possession of the Property, or pursuant to any assignment to Mortgagee under the provisions of this Mortgage or any of the other Loan Documents, shall be applied as provided under applicable law or, in the case of a receivership, as the court may determine:

(a) operating expenses of the Property (including reasonable compensation to Mortgagee, any receiver of the Property, any agent or agents to whom management of the Property has been delegated, and also including lease commissions and other compensation for and expenses of seeking and procuring tenants and entering into leases,

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establishing claims for damages, if any, and paying premiums on insurance hereinabove authorized);

(b) Impositions, and water and sewer charges now due or that may become due on the Property, or that may become a lien prior to the lien of this Mortgage;

(c) any and all repairs, renewals, replacements, alterations, additions, betterments, and improvements of the Property (including without limitation the cost, from time to time, of placing the Property in such condition as will, in the judgment of Mortgagee or any receiver, make it readily rentable or salable);

(d) any Obligations or any deficiency that may result from any foreclosure sale; and

(e) any remaining funds to Mortgagor or its successors or assigns, as their interests and rights may appear.

4.8 Appointment of Receiver. Upon, or at any time after, the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall appoint a receiver of the Property whenever Mortgagee when entitled to possession so requests. Such receiver shall have all powers and duties prescribed by applicable law, including the power to make leases to be binding upon all parties, including the Mortgagor after redemption, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Mortgage real estate after entry of a judgment of foreclosure. In addition, such receiver shall also have the following powers: (a) to extend or modify any then existing leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Obligations and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, discharge of the Mortgage indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser; and (b) all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during the whole of the period of receivership. The court from time to time, either before or after entry of judgment of foreclosure, may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (x) the Obligations, or any amounts included in any judgment of foreclosure or supplemental judgment or other item for which Mortgagee is authorized to make a Protective Advance, and (y) the deficiency in case of a sale and deficiency.

4.9 Foreclosure Sale. In the event of any foreclosure sale, the Property may be sold in one or more parcels. Mortgagee may be the purchaser at any foreclosure sale.

4.10 Application of the Rents or Proceeds from Foreclosure or Sale. In any foreclosure of this Mortgage by judicial action, or any sale of the Property under the power of

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sale herein granted, the proceeds of such foreclosure proceeding and/or sale and/or the Rents paid to Mortgagee shall, to the extent permitted by law, be applied as follows:

First: to the ratable payment of the costs and expenses of such sale, including reasonable compensation to Mortgagee, its agents and attorneys, and of any judicial or private proceedings in which such sale may be made, and of all other expenses, liabilities and advances made or incurred by Mortgagee and its agents and attorneys under this Mortgage, together with interest at the Default Rate on such costs, expenses and liabilities and on all advances made by Mortgagee from the date any such cost, expense or liability is due, owing or unpaid or any such advance is made, in each case until paid in full.

Second: to the payment of the Obligations.

Third: the surplus, if any, to be paid to whomever may be lawfully entitled to receive such surplus.

4.11 No Merger. In the event of a foreclosure of this Mortgage, the Obligations then due Mortgagee shall not be merged into any decree of foreclosure entered by the court, and Mortgagee may concurrently or subsequently seek to foreclose one or more mortgages or deeds of trust which also secure said Obligations.

4.12 Insurance Upon Foreclosure. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy or policies, if not applied to the Restoration of the Property shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. In case of the foreclosure of this Mortgage, the court in its judgment may provide that the judgment creditor may cause a new or additional loss clause to be attached to each of said policies making the loss thereunder payable to said judgment creditor; and any such foreclosure judgment may further provide, unless the right of redemption has been waived, that in case of redemption under said judgment, pursuant to the Act, then, and in every such case, the redemptory may cause the preceding loss clause attached to each insurance policy to be cancelled and a new loss clause to be attached thereto, making the loss thereunder payable to such redemptory. In the event of foreclosure sale, Mortgagee is hereby authorized, but not required, without the consent of Mortgagor, to assign or cause a receiver to assign any and all insurance policies to the purchaser at the sale, or to take such other action as Mortgagee may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

4.13 Waiver of Statutory Rights. Mortgagor shall not apply for or avail itself of any appraisalment, valuation, redemption, stay, extension, or exemption laws, or any so-called "moratorium laws", now existing or hereafter enacted, in order to prevent or hinder the enforcement or foreclosure of this Mortgage, and Mortgagor hereby waives the benefit of such laws (to the extent permitted by the Act or other applicable law). Mortgagor, for itself and all who may claim through or under it, waives any and all rights to have the Property and estates comprising the Property marshaled upon any foreclosure of the lien of this Mortgage, and agrees that any court having jurisdiction to foreclose such lien may order the Property sold in its

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entirety. Mortgagor further waives any and all rights of redemption from foreclosure and from sale under any order or decree of foreclosure (whether full or partial) of the lien created by this Mortgage, pursuant to the rights therein granted, as allowed under Section 15-1601(b) of the Act, and all rights of reinstatement under Section 15-1602 of the Act, for itself and on behalf of: (i) any trust estate of which the Premises are a part, all beneficially interested persons; (ii) each and every person acquiring any interest in the Property or title to the Premises subsequent to the date of this Mortgage; and (iii) all other persons to the extent permitted by the provisions of laws of the State in which the Premises are located. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in con) or residential real estate (as defined in Section 15-1219 of the Act).

SECTION 5 SUBORDINATION

5.1 Senior Mortgage. Mortgagor has executed and delivered (i) the note in the original principal amount of \$9,250,000.00 payable to Romspen Investment Corporation ("Senior Note"); and (ii) the first mortgage executed by Mortgagor in favor of Romspen Investment Corporation securing the Senior Note, recorded on June 2, 2014, as Document Number 1415519048 with the Recorder of Deeds of Cook County, Illinois ("Senior Mortgage") (collectively, the "Senior Loan Documents"). Mortgagee acknowledges that this Mortgage and the rights of Mortgagee hereunder are junior and subordinate to the lien of the Senior Mortgage.

(a) Mortgagor's Covenants with Respect to Senior Loan Documents.

(i) Mortgagor will comply with all of the terms and provisions of the Senior Loan Documents. If Mortgagor shall default in the performance of the Secured Indebtedness, Mortgagee may, but shall not be obligated to, pay any principal or interest due under the Senior Loan Documents.

(ii) Mortgagor shall give Mortgagee a copy of all notices given Mortgagor with respect to any of the Senior Loan Documents within five (5) days after receiving such notice.

(iii) Without Mortgagee's prior written consent, Mortgagor shall not enter into any modification of the Senior Loan Documents that adversely affects Mortgagee.

5.2 Default under Senior Loan Documents; Mortgagee's Right to Cure. If Mortgagor is declared by the holder of the Senior Loan Documents to be in default with respect to any requirement of any of the Senior Loan Documents, after expiration of any applicable cure period, it shall constitute an Event of Default hereunder. Upon the occurrence of such an Event of Default, in addition to any other rights or remedies available to Mortgagee, Mortgagee may, but need not, make any payment or perform any act required to cure or attempt to cure the default under any of the Senior Loan Documents in any manner and form deemed expedient by Mortgagee. All monies paid by Mortgagee in curing any default under the Senior Loan Documents, including attorneys' fees and costs in connection therewith, shall bear interest from the date or dates of such payment at the rate of fifteen percent (15%) per annum, shall be paid by

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Mortgagor to Mortgagee on demand, and shall be deemed a part of the Secured Indebtedness and recoverable as such in all respects.

SECTION 6 MISCELLANEOUS

6.1 Notices. Any notice, demand, request or other communication that Mortgagee or Mortgagor may desire or be required to give to the other shall be in writing and shall be mailed or delivered to such party at such party's business address. Except as otherwise specifically required, notice of the exercise of any right or option granted to Mortgagee by this Mortgage is not required to be given.

6.2 Time of Essence. Time is of the essence of this Mortgage.

6.3 Covenants Run with Land. All of the covenants of this Mortgage shall run with the land constituting the Premises.

6.4 GOVERNING LAW. THIS MORTGAGE SHALL BE CONSTRUED, GOVERNED AND ENFORCED ACCORDING TO THE LAWS OF THE STATE OF ILLINOIS (WITHOUT REFERENCE TO CONFLICTS OF LAWS PROVISIONS THEREOF), EXCEPT THAT THE INTERNAL LAWS OF THE STATE WHERE THE PREMISES ARE LOCATED SHALL GOVERN THE LIEN PRIORITY AND VALIDITY OF THIS MORTGAGE AND PROCEDURES WITH RESPECT TO THE ENFORCEMENT THEREOF. TO THE EXTENT THAT THIS MORTGAGE MAY OPERATE AS A SECURITY AGREEMENT UNDER THE CODE, MORTGAGEE SHALL HAVE ALL RIGHTS AND REMEDIES CONFERRED THEREIN FOR THE BENEFIT OF A SECURED PARTY AS SUCH TERM IS DEFINED IN THE CODE.

6.5 Rights and Remedies Cumulative. All rights and remedies in this Mortgage are cumulative. The holder(s) of the Note and of every other obligation secured hereby may recover judgment, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy.

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

6.7 Non-Waiver. Unless expressly provided in this Mortgage to the contrary, no consent or waiver, express or implied, by any party, to or of any breach or default by any other party shall be deemed a consent to or waiver of the performance by such defaulting party of any other obligations or the performance by any other party of the same, or of any other, obligations.

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

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

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

6.11 Successors and Assigns. This Mortgage shall be binding upon Mortgagor, its successors, assigns, legal representatives, and all other persons or entities claiming under or through Mortgagor. "Mortgagee", when used herein, shall include Garvey Court Holdings LLC, together with its successors, assigns and legal representatives. "Mortgagor", when used herein, shall include all such persons and entities and any others liable for the payment of the Secured Indebtedness, or any part thereof, whether or not they have executed the Note or this Mortgage.

6.12 Mortgagee in Possession. Nothing contained in this Mortgage shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Property.

6.13 Compliance with Applicable Law. Anything elsewhere herein contained to the contrary notwithstanding:

(a) in the event that any provision in this Mortgage shall be inconsistent with any provision of applicable law, the provisions of applicable law 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 applicable law;

(b) if any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under applicable law in the absence of said provision, Mortgagee shall be vested with the rights granted under applicable law to the full extent permitted by law; and

(c) it is the intention of the parties to conform strictly to the usury laws, whether state or federal, that are applicable to the Notes or the Mortgage. All agreements between Mortgagor and Mortgagee, whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid or agreed to be paid by Mortgagor for the use, forbearance or detention of the money loaned or to be loaned under the Note or this Mortgage, or for the payment or performance of any covenant or obligation contained herein or in the Note, exceed the maximum amount permissible under applicable federal

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or state usury laws. If under any circumstances whatsoever fulfillment of any provision hereof or of the Note, at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by law, then the obligation to be fulfilled shall be reduced to the limit of such validity. If under any circumstances Mortgagor shall have paid an amount deemed interest by applicable law, which would exceed the highest lawful rate, such amount that would be excessive interest under applicable usury laws shall be applied to the reduction of the principal amount owing in respect of the Loan and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal and any other amounts due hereunder, the excess shall be refunded to Mortgagor. All sums paid or agreed to be paid for the use, forbearance or detention of the principal under the Loan shall, to the extent permitted by applicable law, and to the extent necessary to preclude exceeding the limit of validity prescribed by law, be amortized, prorated, allocated and spread from the date of this Mortgage until payment in full of the Obligations so that the actual rate of interest on account of such principal amounts is uniform throughout the term hereof. The terms and provisions of this subparagraph shall control and supersede every other provision of this Mortgage or the Note.

6.14 Incorporation of Loan Documents. The terms of the Note are incorporated by reference herein as though set forth in full detail. In the event of any conflict between the terms and provisions of this Mortgage and any other Loan Documents, the terms and provisions of such other Loan Documents shall control.

6.15 Maximum Secured Amount and Final Maturity Date. The maximum principal amount which may be secured hereby at any one time is Four Million Dollars and no/Cents (\$4,000,000.00), plus interest thereon, and any disbursements made by Mortgagee for the payment of taxes, special assessments, or insurance on the Property or for the protection of the Property, with interest on such disbursements. The latest date by which the Secured Indebtedness must be satisfied is September __, 2014.

6.16 Maintenance of Encumbrance Amount. If at any time this Mortgage shall secure less than all of the principal amount of the Secured Indebtedness, it is expressly agreed that any repayments of the principal amount of the Secured Indebtedness shall not reduce the amount of the encumbrance of this Mortgage until the encumbrance amount shall equal the principal amount of the Secured Indebtedness outstanding.

6.17 Additional Provisions. The following provisions shall also constitute an integral part of this Mortgage. Furthermore, in the event that any prior provisions of this Mortgage conflict with the following provisions of this Section, the provisions of this Section shall control and shall be deemed a modification of or amendment to the section or provision at issue:

(a) **Power of a Receiver.** The powers of a receiver listed in 735 ILCS 5/15-1704 shall be added to all the powers of a receiver listed in the Mortgage subject to any express limitations on such powers in the Mortgage.

(b) **Compliance with Illinois Mortgage Foreclosure Law.**

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(i) If any provision of this Mortgage is inconsistent with any applicable provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, et seq. (the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act.

(ii) Without in any way limiting any of the Mortgagee's rights, remedies, powers and authorities under this Mortgage, and in addition to all of such rights, remedies, powers, and authorities, the Mortgagee shall also have all rights, remedies, powers and authorities permitted to the holder of a mortgage under the Act, as the same may be amended from time to time. If any provision of this Mortgage shall grant to the Mortgagee any rights, remedies, powers or authorities upon default of the Mortgagor which are more limited than what would be vested in the Mortgagee under the Act in the absence of said provision, the Mortgagee shall have what would be vested under the Act.

(iii) Without limitation, all expenses (including reasonable attorneys' fees and expense) incurred by the Mortgagee, to the extent reimbursable under 735 ILCS 5/15-1510, 5/15-1512, or any other provision of the Act, whether incurred before or after any judgment of foreclosure, shall be added to the indebtedness secured by this Mortgage and included in the judgment of foreclosure.

(c) Use of Proceeds. The Mortgagor hereby represents and warrants that the proceeds of the Note will be used for business purposes and that the indebtedness secured hereby constitutes a business loan. The Mortgagor represents and agrees that the obligations secured hereby: (i) constitute a business loan which comes within the purview of subparagraphs (1)(a) or (1)(c) of 815 ILCS 205/4, and a loan secured by a mortgage on real estate which comes within the purview of subparagraph (1)(c) of 815 ILCS 205/4, (ii) are exempted from transactions under the Truth-in-Lending Act, 15 U.S.C. Secs. 1601, et seq.

(d) WAIVERS OF RIGHTS OF REINSTATEMENT AND REDEMPTION. THE MORTGAGOR, ON BEHALF OF ITSELF AND ALL PERSONS NOW OR HEREAFTER INTERESTED IN THE MORTGAGED PROPERTY, VOLUNTARILY AND KNOWINGLY HEREBY ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS MORTGAGE IS A PART IS A TRANSACTION WHICH DOES NOT INCLUDE EITHER AGRICULTURAL REAL ESTATE (AS DEFINED IN THE ACT), OR RESIDENTIAL REAL ESTATE (AS DEFINED IN THE ACT). THE MORTGAGOR, ON ITS OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PROPERTY SUBSEQUENT TO THE DATE OF THIS MORTGAGE, HEREBY IRREVOCABLY WAIVES PURSUANT TO 735 ILCS 5/15-1601 OF THE ACT ANY AND ALL RIGHTS OF REINSTATEMENT (INCLUDING, WITHOUT LIMITATION, ALL RIGHTS OF REDEMPTION OR REINSTATEMENT PROVIDED FOR IN 735

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ILCS 5/15-1602) OR REDEMPTION FROM SALE OR FROM OR UNDER ANY ORDER, JUDGMENT OR DECREE OF FORECLOSURE OF THIS MORTGAGE (INCLUDING, WITHOUT LIMITATION, ALL RIGHTS OF REDEMPTION PROVIDED FOR IN 735 ILCS 5/15-1603) OR UNDER ANY POWER CONTAINED HEREIN OR UNDER ANY SALE PURSUANT TO ANY STATUTE, ORDER, DECREE OR JUDGMENT OF ANY COURT.

(e) **Payment of Taxes and Fees.** Mortgagor agrees to pay all transfer taxes, recordation taxes, recording fees, and any other fees required by or imposed by the State or the county in which the Premises is located in order to record this Mortgage in the Recorder's Office of Cook County, Illinois.

(f) **No Assumption of Obligations.** In the event of a foreclosure of the Property, Mortgagee shall not assume any liability of Mortgagor for Mortgagor's violation of any environmental laws, statutes, codes, regulations, or practices and Mortgagor's indemnifications as contained herein shall survive said foreclosure.

(g) **Expenses of Enforcement; Waiver.** Mortgagor agrees to bear and pay all reasonable expenses (including reasonable attorney fees and appellate attorney fees), of or incidental to the enforcement of any provision hereof, or the enforcement, compromise, or settlement of this Mortgage or the Obligations, and for the curing thereof, or for defending or asserting the rights and claims of Mortgagee in respect thereof, by litigation or otherwise. All rights and remedies of Mortgagee shall be cumulative and may be exercised singly or concurrently. Notwithstanding anything herein contained to the contrary, Mortgagor to the extent permitted by applicable law: (i) hereby waives trial by jury; (ii) will not (A) at any time insist upon, or plead, or in any manner whatever claim or take any benefit or advantage of any stay or execution or moratorium law, any exemption for execution of sale of the Property or any part thereof, wherever enacted, now or at any time hereafter enforced, which may affect the covenants and terms of performance of this Mortgage, nor (B) claim, take or insist upon any benefit or advantage of any law now or hereafter enforced providing for the evaluation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment or order of any court of competent jurisdiction, nor (C) after any such sale or sales, claim, or exercise any right under any statute heretofore or hereafter enacted to redeem the property so sold or any part thereof; (iii) hereby expressly waives all benefit or advantage of any such law or laws including but not limited to a waiver of the equity of redemption, statutory right of redemption, and any other statutory or common law right of redemption, homestead, dower, marital share and all other exemptions; and (iv) covenants not to hinder, delay or impede the execution of any power herein granted or delegated to Mortgagee, but to suffer and permit the execution of every power as though no such laws or laws had been made or enacted. Mortgagor, for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Property marshaled upon any foreclosure hereof.

(h) **Subordination of Property Manager's Lien and Real Estate Broker's Lien.** Any property management agreement for the Property entered into hereafter by

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Mortgagor with a property manager shall contain a "no lien" provision whereby the property manager waives and releases any and all mechanics' lien rights that the property manager may have pursuant to the Illinois Mechanics Lien Act, 770 ILCS 60/1 et seq. Such property management agreement or a short form thereof shall, at Mortgagee's request, be recorded with the Recorder of Deeds of the county where the Property is located. In addition, Mortgagor shall cause the property manager to enter into a subordination of management agreement with Mortgagee, in recordable form, whereby the property manager subordinates present and future lien rights and those of any party claiming by, through or under the property manager, to the lien of this Mortgage. Any agreement entered into hereafter by Mortgagor or any agent of Mortgagor with any "broker" (as defined in the Real Estate License Act of 1983, 225 ILCS 455/1 et seq.) that is an affiliate of Mortgagor for the purpose of selling, leasing or otherwise conveying an interest in the Property shall contain a "no lien" provision whereby such broker waives and releases any and all lien rights that such broker or anyone claiming by, through or under such broker may have pursuant to the Commercial Broker Lien Act, 770 ILCS 15/1 et seq. Mortgagor shall cause such broker to enter into a subordination agreement with Mortgagee, in recordable form, whereby such broker, on its own behalf and on behalf of any party claiming by, through or under such broker, subordinates present and future lien rights to the lien of this Mortgage.

[Signature Page Follows]

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IN WITNESS WHEREOF, this instrument is executed as of the day and year first above written by the person or persons identified below on behalf of Mortgagor.

THE MORTGAGOR DECLARES AND ACKNOWLEDGES THAT THE MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS MORTGAGE.

MORTGAGOR:

GARVEY COURT HOLDINGS, LLC,
A Delaware limited liability company

By Garvey Court, LLC, a Delaware limited liability company, Manager

By Garvey Court Inv., LLC, a Delaware limited liability company, Manager

By 

Scott Morgan, Sole Member

This document has been prepared by:

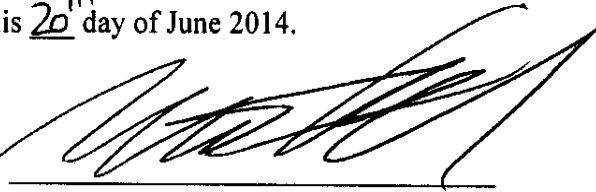
James C. Lukas, Esq.
Winston & Strawn LLP
35 West Wacker Drive
Chicago, Illinois 60601

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

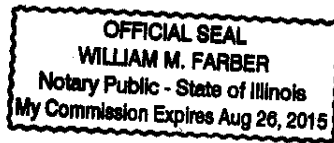
I, the undersigned, a Notary Public in and for said County in the State aforesaid, do hereby certify that Scott Morgan, being the Sole Member of Garvey Court Inv., LLC, a Delaware limited liability company, being the Manager of Garvey Court, LLC, being the Manager of Mortgagor in the foregoing instrument, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such officer, appeared before me this day in person and acknowledged that he signed and delivered such instrument as his own free and voluntary act and as the free and voluntary act of the Grantor, all for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal this 20TH day of June 2014.



Notary Public

Official Seal:



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Exhibit A

Legal Description

Common Address: 201 North Clark Street, Chicago, Illinois

Tax Parcel Numbers: 17-09-422-008-0000, 17-09-422-009-0000, 17-09-422-010-0000, 17-09-422-011-0000, 17-09-422-012-0000, 17-09-424-005-0000, 17-09-424-006-0000

PARCEL 1A:

ALL OF SUBLOTS 1 TO 7 AND THE ALLEY IN THE ASSESSOR'S DIVISION OF LOT 5 IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO;

ALSO

LOT 6 (EXCEPT THE EAST 20.00 FEET THEREOF) IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO. ALL IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

AREA = 20,782.3 SQUARE FEET OR 0.5460 ACRES

PARCEL 1B:

THAT PART OF THE EAST 1/2 OF LOT 7, (AS SUCH EAST 1/2 IS MEASURED ALONG THE SOUTH LINE THEREOF), IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO, LYING EAST OF A LINE 82.0 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF NORTH DEARBORN STREET, IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH ALL OF SUBLOTS 1 TO 8 IN SUBDIVISION OF LOT 8 IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO, AFORESAID;

LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +482.00 FEET CHICAGO CITY DATUM, IN COOK COUNTY, ILLINOIS.

AREA = 11,946.6 SQUARE FEET OR 0.2743 ACRES

PARCEL 1C INTENTIONALLY OMITTED

PARCEL 1D INTENTIONALLY OMITTED

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PARCEL 1E INTENTIONALLY OMITTED

PARCEL 2:

THAT PART OF THE EAST 1/2 OF LOT 7, (AS SUCH EAST 1/2 IS MEASURED ALONG THE SOUTH LINE THEREOF), LYING WEST OF A LINE 82.0 FEET WEST OF AND PARALLEL WITH THE WEST LINE OF NORTH DEARBORN STREET, IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO, IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +99.75 FEET CHICAGO CITY DATUM, IN COOK COUNTY, ILLINOIS.

AREA = 5,080.5 SQUARE FEET OR 0.1304 ACRES

PARCEL 2A:

THE EAST 20.00 FEET OF LOT 6 AND THE WEST 1/2 OF LOT 7, (AS SUCH WEST 1/2 IS MEASURED ALONG THE SOUTH LINE OF LOT 7), IN BLOCK 17 IN THE ORIGINAL TOWN OF CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 9, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN;

LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF +29.00 FEET CHICAGO CITY DATUM, IN COOK COUNTY, ILLINOIS.

AREA = 8,871.4 SQUARE FEET OR 0.2037 ACRES

PARCEL 3:

PERPETUAL EASEMENTS BY AND SET FORTH IN QUIT CLAIM DEED IN TRUST DATED MAY 1, 1987 FROM CITY OF CHICAGO, AS GRANTOR, IN FAVOR OF AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, AS TRUSTEE UNDER TRUST AGREEMENT DATED NOVEMBER 26, 1985 AND KNOWN AS TRUST NUMBER 66121 RECORDED AS DOCUMENT 87254850 ON MAY 12, 1987 WITH THE COOK COUNTY RECORDER OF DEEDS ESTABLISHING WHICH EASEMENTS ARE IDENTIFIED IN 'EXHIBIT B' OF SAID DEED AND ARE AS FOLLOWS:

1. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF A SERVICE DRIVE AND LOADING BERTH ON, OVER, UNDER, ACROSS AND ALONG THAT PORTION OF WEST HADDOCK PLACE IN COOK COUNTY, CITY OF CHICAGO, STATE OF ILLINOIS, LYING WEST OF THE WEST LINE OF NORTH DEARBORN STREET AND EAST OF THE EAST LINE OF GARVEY COURT LOCATED APPROXIMATELY AS SHOWN ON SHEET A1-2PL ("SITE PLAN PARCELS") REVISED TO FEBRUARY 3, 1987 PREPARED BY LISEC & BIEDERMAN AS JOB NUMBER 1173;

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2. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF A WALL AND FOOTINGS ACROSS IN THAT PORTION OF WEST HADDOCK PLACE IN COOK COUNTY, CITY OF CHICAGO, STATE OF ILLINOIS, LYING EAST OF THE EAST LINE OF GARVEY COURT IN THE CITY OF CHICAGO, COOK COUNTY, STATE OF ILLINOIS, AND WEST OF THE WEST LINE OF NORTH DEARBORN STREET IN THE CITY OF CHICAGO, COOK COUNTY, STATE OF ILLINOIS, LOCATED APPROXIMATELY AS SHOWN ON SHEET A1-2PL ("SITE PLAN PARCELS") REVISED TO FEBRUARY 3, 1987 PREPARED BY LISEC & BIEDERMAN AS JOB NUMBER 1173;

3. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF CAISSONS, CAISSON BELLS AND CAISSON SHAFTS IN THE FOLLOWING AREAS LOCATED APPROXIMATELY AS SHOWN ON SHEET A1-2PL ("SITE PLAN PARCELS") REVISED TO FEBRUARY 3, 1987 PREPARED BY LISEC & BIEDERMAN AS JOB NUMBER 1173:

A) IN THAT PORTION OF THE SOUTH 1/2 OF WEST HADDOCK PLACE, LYING WEST OF THE WEST LINE OF NORTH DEARBORN STREET AND EAST OF THE EAST LINE OF NORTH CLARK STREET, IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS;

B) IN THAT PORTION OF THE NORTH 7.00 FEET OF WEST LAKE STREET, LYING WEST OF THE WEST LINE OF NORTH DEARBORN STREET AND EAST OF THE EAST LINE OF NORTH CLARK STREET, IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS;

C) IN THAT PORTION OF THE EAST 1/2 OF NORTH GARVEY COURT, LYING NORTH OF THE NORTH LINE OF WEST LAKE STREET AND SOUTH OF THE SOUTH LINE OF WEST HADDOCK PLACE, IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS;

4. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF A WALL IN THAT PORTION OF THE EAST 1/2 OF GARVEY COURT LYING NORTH OF THE NORTH LINE OF WEST LAKE STREET AND SOUTH OF THE SOUTH LINE OF WEST HADDOCK PLACE, IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, LOCATED APPROXIMATELY AS SHOWN ON SHEET TS-1PL PREPARED BY LISEC & BIEDERMAN ENTITLED "CAISSON AND BASEMENT PLAN, CAISSON SCHEDULE AND DETAILS" REVISED TO FEBRUARY 3, 1987 AS PART OF JOB NUMBER 1173;

5. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF A WALL AND FOOTINGS IN THAT PORTION OF NORTH DEARBORN STREET LYING SOUTH OF THE SOUTH LINE OF WEST HADDOCK PLACE AND NORTH OF THE NORTH LINE OF WEST LAKE STREET IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, LOCATED APPROXIMATELY AS SHOWN ON SHEET TS-1PL PREPARED BY LISEC & BIEDERMAN ENTITLED "CAISSON AND BASEMENT PLAN, CAISSON SCHEDULE AND DETAILS" REVISED TO FEBRUARY 3, 1987 AS PART OF JOB NUMBER 1173;

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6. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF A WALL AND FOOTINGS IN THAT PORTION OF THE NORTH 3.00 FEET OF WEST LAKE STREET LYING EAST OF THE EAST LINE OF NORTH CLARK STREET AND WEST OF THE WEST LINE OF NORTH DEARBORN STREET IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, LOCATED APPROXIMATELY AS SHOWN ON SHEETS A1-2PL ("SITE PLAN PARCELS"), TS-1PL ("CAISSON AND BASEMENT PLAN, CAISSON SCHEDULE AND DETAILS, TS-4PL("FRAMING PLAN-LEVEL 1") AND CS-1PL ("SLAB OR GRADE AND FOUNDATION PLAN") PREPARED BY LISEC & BIEDERMAN REVISED TO FEBRUARY 3, 1987 AS PART OF JOB NUMBER 1173;

7. AN EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF FOOTINGS IN THE FOLLOWING PROPERTY:

A) THE EAST 3.00 FEET OF NORTH CLARK STREET LYING SOUTH OF THE SOUTH LINE OF WEST HADDOCK PLACE AND NORTH OF THE NORTH LINE OF WEST LAKE STREET TO BE LOCATED APPROXIMATELY AS SHOWN ON SHEET CS-1PL ("SLAB ON GRADE AND FOUNDATION PLAN") PREPARED BY LISEC & BIEDERMAN REVISED TO FEBRUARY 3, 1987 AS PART OF JOB NUMBER 1173;

B) THAT PORTION OF WEST HADDOCK PLACE LYING WEST OF THE WEST LINE OF NORTH DEARBORN STREET AND EAST OF THE EAST LINE NORTH GARVEY COURT, IN THE CITY OF CHICAGO, COUNTY OF COOK, AND STATE OF ILLINOIS LOCATED APPROXIMATELY AS SHOWN ON SHEETS A1-2PL ("SITE PLAN PARCELS"), TS-1PL ("CAISSON AND BASEMENT PLAN, CAISSON SCHEDULE AND DETAILS, TS-4PL ("FRAMING PLAN-LEVEL 1) AND CS-1PL ("SLAB ON GRADE AND FOUNDATION PLAN") PREPARED BY LISEC & BIEDERMAN REVISED TO FEBRUARY 3, 1987, (MARCH 27, 1987 FOR A1-2PL) AS PART OF JOB NUMBER 1173;

8. AN NON-EXCLUSIVE EASEMENT FOR THE CONSTRUCTION, INSTALLATION, SUPPORT, REMODELLING, USE, OPERATION, REPAIR, MAINTENANCE AND REPLACEMENT OF TWO (2) "SIAMESE" WATER PIPE CONNECTIONS IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, ONE (1) LOCATED IN THE NORTH 1/2 OF THAT PORTION OF WEST LAKE STREET LYING WEST OF THE WEST LINE OF NORTH GARVEY COURT AND EAST OF THE EAST LINE OF NORTH CLARK STREET, AND THE OTHER LOCATED IN THE EAST 1/2 OF THAT PORTION OF NORTH CLARK STREET LYING NORTH OF THE NORTH LINE OF WEST LAKE STREET AND SOUTH OF THE SOUTH LINE OF WEST HADDOCK PLACE, TO BE LOCATED APPROXIMATELY AS SHOWN ON SHEET A1-2PL SITE PLAN PREPARED BY LISEC & BIEDERMAN AS PART OF JOB NUMBER 1173 (REVISED TO MARCH 27, 1987).

PARCEL 4 INTENTIONALLY OMITTED

PARCEL 5:

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NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 AND OTHER PROPERTY FOR INGRESS, EGRESS, USE AND ENJOYMENT, AS CREATED BY AND SET FORTH IN THE EASEMENT AGREEMENT FOR 200 DEARBORN, CHICAGO, ILLINOIS, RECORDED FEBRUARY 25, 2008 AS DOCUMENT 0805641067, IN COOK COUNTY, ILLINOIS.

PARCEL 6 INTENTIONALLY OMITTED

PARCEL 7:

NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY EASEMENT AGREEMENT RECORDED NOVEMBER 12, 1991 AS DOCUMENT NO. 91591893 FOR THE PURPOSE OF INGRESS, EGRESS, USE, CONSTRUCTION AND ENJOYMENT ("HADDOCK BRIDGE").

PARCEL 8:

A NON-EXCLUSIVE EASEMENT FOR THE BENEFIT OF PARCELS 1 AND 2 AS CREATED BY EASEMENT AGREEMENT RECORDED AS DOCUMENT NO. 92199746 FOR THE PURPOSE OF INGRESS, EGRESS, USE, CONSTRUCTION AND ENJOYMENT ("CLARK STREET BRIDGE")

PARCEL 9 INTENTIONALLY OMITTED