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1417516067

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Doc#: 1417516067 Fee: \$108.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/24/2014 04:12 PM Pg: 1 of 36

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN: 13-27-301-008-0000**

Address:

Street: 4600 West Schubert Ave.

Street line 2:

City: Chicago

State: IL

ZIP Code: 60639

Lender: Cottonwood Capital, LLC

Borrower: Shubert Development Partners, LLC

Loan / Mortgage Amount: \$8,900,000.00

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

Certificate number: 8E0D75D5-9786-4D48-AB08-498C2678BF8B

Execution date: 06/20/2014

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WHEN RECORDED MAIL TO:**

Campbell Killin Brittan & Ray, LLC
 Attn: J. Kevin Ray, Esq.
 270 St Paul, Suite 200
 Denver, CO 80206

SPACE ABOVE THIS LINE IS FOR
 RECORDER'S USE ONLY

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT, dated as of June 20, 2014, is given by Shubert Development Partners, LLC, a Colorado limited liability company, whose address is 270 Saint Paul Street, Suite 300, Denver, Colorado 80206 (referred to herein as "Mortgagor"); in favor of Cottonwood Capital, LLC, a Colorado limited liability company, whose address is 270 St. Paul Street, Suite 300, Denver, Colorado 80206 (referred to below as "Mortgagee").

Mortgagor and Mortgagee are parties to a Loan and Security Agreement ("Loan Agreement") dated as of January 9, 2013 (the "Loan Agreement"), pursuant to which Mortgagee has made a loan ("Loan") to Mortgagor in the original principal amount US\$2,900,000 or so much thereof as may be advanced and be outstanding, together with interest at 10% per annum and the Make Whole Amount (as defined in the Loan Agreement) and the ALDI Advance Make-Whole Amount (as defined in the Loan Agreement) plus the amount of any Protective Advances, Contingent Interest, and any accrued default interest and all other amounts payable pursuant to the Loan Documents (as hereinafter defined), including the Loan Agreement and a Promissory Note given by Mortgagor in favor of Mortgagee dated as of January 9, 2013. The entire unpaid principal balance, all accrued and unpaid interest and all other amounts payable pursuant to the Loan Documents became due and payable on January 8, 2014. Pursuant to the terms of the Loan Agreement, upon Mortgagor's acquisition of fee simple title to the Real Property (hereinafter defined), Borrower/Mortgagor agreed to execute this Mortgage and Security Agreement in order to secure the Mortgagee's interest in the replacement collateral.

For valuable consideration, which among other things consists of, Mortgagee's agreement to provide this Mortgage and Security Agreement as security for the Loan upon a Conversion Event (as such term is defined in the Loan Agreement), Mortgagor hereby irrevocably mortgages, grants, transfers, assigns, warrants and conveys to Mortgagee a security interest in all of Mortgagor's present and future estate, right, title and interest in and to that real property and all buildings and other improvements now thereon or hereafter constructed thereon (the "Property"), in Cook County, Illinois, described on Exhibit A attached hereto and by this reference made a

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part hereof, together with all of the following which, with the Property (except where the context otherwise requires), are hereinafter collectively called the "Real Property":

- (a) All appurtenances in and to the Property;
- (b) All water and water rights, contracts with water districts, ditches and ditch rights, reservoir and reservoir rights, stock or interests in irrigation or ditch companies, minerals, oil and gas rights, royalties, lease or leasehold interests (if any) owned by Mortgagor, now or hereafter used or useful in connection with, appurtenant to or related to the Property;
- (c) All right, title and interest of Mortgagor now owned or hereafter acquired in and to all streets, roads, alleys and public places, and all easements and rights of way, public or private, now or hereafter used in connection with the Property;
- (d) All machinery, equipment, fixtures and materials now or at any time attached to the Property, including but not limited to all surface and subsurface irrigation and sprinkler system equipment together with all processing, manufacturing and service equipment and other personal property now or at any time hereafter located on or appurtenant to the Property and used in connection with the management and operation thereof;
- (e) Any licenses, contracts, permits and agreements required or used in connection with the ownership, operation or maintenance of the Property, and the right to the use of any tradename, trademark, or service mark now or hereafter associated with the operation of any business conducted on the Property;
- (f) Any and all insurance proceeds, and any and all awards, including interest, previously and hereafter made to Mortgagor for taking by eminent domain of the whole or any part of the Property or any easements therein; and
- (g) All existing and future leases, subleases, licenses and other agreements for the use and occupancy of all or any portion of the Property and all income, receipts, revenues, rents, issues and profits securing deposits, impounds, reserves, tax refunds and other rights to monies arising from the use or enjoyment of all or any portion of the Property. In addition, Mortgagor grants Mortgagee a Uniform Commercial Code security interest in the Rents and the Personal Property defined below.
- (h) All of Mortgagor's "accounts" (as defined in the Uniform Commercial Code) now owned or hereafter created or acquired as relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts receivable, contract rights, book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due to become due to the Mortgagor under all

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contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor); (v) uncertificated securities, and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Property;

(i) All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Property or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Property or proceeds of any sale, option or contract to sell the Property or any portion thereof.

To have and to hold the Property, unto Mortgagee, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Property after the occurrence of any Event of Default; Mortgagee hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

For the purpose of securing: (i) the payment of the Loan and all interest, late charges, contingent interest, reimbursement obligations, and other indebtedness evidenced by or owing under the Note or any of the other Loan Documents, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Note, this Mortgage or any of the other Loan Documents, and (iii) the reimbursement to the Mortgagee of the Indebtedness, as defined herein.

DEFINITIONS. The following words shall have the following meanings when used in this Mortgage. Terms not otherwise defined in this Mortgage shall have the meanings attributed to such terms in the Loan Agreement or Uniform Commercial Code, as applicable. All references to dollar amounts shall mean amounts in lawful money of the United States of America.

Construction Loan Escrow. The term “**Construction Loan Escrow**” means the Escrow account established in accordance with the Construction Loan Escrow Agreement.

Construction Loan Escrow Agreement. The term “**Construction Loan Escrow Agreement**” means that construction loan escrow trust and disbursing agreement between Seller and 4600 Schubert, LLC held by Chicago Title and Trust Company as Escrow Trustee, dated August 9, 2012 as trust number CCE 027049309 004.

Construction Reserve Account. The words “**Construction Reserve Account**” mean a separate Construction Reserve Account in Borrower’s name into which \$1,000,000 of the initial advance

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made by Lender shall be deposited to be used solely for construction costs incurred by Borrower in connection with the construction of a +/- 10,000 square foot retail building.

Improvements. The word "Improvements" shall mean any improvements now located, or constructed in the future, upon the Property.

Indebtedness. The word "Indebtedness" means any and all liabilities, obligations and indebtedness of Borrower to Lender of any and every kind and nature, at any time owing, arising, due or payable and howsoever evidenced, created, incurred, acquired or owing, whether primary, secondary, direct, contingent, fixed or otherwise (including, without limitation, the Make-Whole Amount and the ALDI Advance Make-Whole Amount), but only to the extent arising or existing under this Agreement or any of the other Loan Documents or by operation of law. "Indebtedness" shall include, without duplication, the Senior Loan Payoff Amount.

Intercreditor Agreement. The words "Intercreditor Agreement" mean that certain Intercreditor Agreement dated as of January 9, 2013 by and among, Lender and Subordinate Lender, together with all amendments and modifications thereto.

Leases. The word "Leases" refers any lease(s) that may be executed before or during the term of the Loan on the Property.

Mortgage. The words "Mortgage" means this Mortgage and Security Agreement among Mortgagor and Mortgagee, and includes without limitation all assignment and security interest provisions relating to the Personal Property and Rents.

Mortgagee. The word "Mortgagee" means Cottonwood Capital, LLC, a Colorado limited liability company, its successors and assigns.

Mortgagor. The word "Mortgagor" means any and all persons and entities executing this Mortgage.

Loan Documents. The words "Loan Documents" mean and include without limitation the Note, Loan Agreement and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the Indebtedness, including this Mortgage.

Note. The word "Note" means the Promissory Note dated as of January 9, 2013, in the original principal amount of \$8,900,000, as more particularly described in the Loan Documents, and which Note is from Mortgagor to Mortgagee, together with all renewals, extensions, modifications, refinancings, and substitutions for the Note.

Operating Account. The words "Operating Account" mean the account in the name of Mortgagor established into which all operating funds of the Mortgagor will be deposited and which is referred to as the Cash Collateral Account in the Intercreditor Agreement.

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Personal Property. The words "Personal Property" mean all of the following property and interests in property of Mortgagor, whether now owned or existing or hereafter acquired or arising and wheresoever located: all Accounts (specifically including the Construction Loan Escrow, the Operating Account and the Construction Reserve Account), Inventory, Equipment, Goods, General Intangibles, Payment Intangibles, Commercial Tort Claims (specifically described as those Commercial Tort Claims which are proceeds of any of the other herein described collateral), Deposit Accounts, Margin Accounts, Commodity Accounts, Commodity Contracts, Securities Accounts, Investment Property, Instruments, Letter of Credit Rights, Documents, Chattel Paper, Electronic Chattel Paper, Tangible Chattel Paper, all accessions to, substitutions for, and all replacements, products and proceeds of the foregoing (including without limitation, proceeds of insurance policies insuring any of the foregoing), all books and records pertaining to any of the foregoing (including without limitation, customer lists, credit files, computer programs, printouts and other computer materials and records), and all insurance policies insuring any of the foregoing, and specifically including each of the listed items under the section of this Mortgage entitled "Security Agreement and Fixture Filing" below.

Property. The word "Property" means collectively the Real Property and the Personal Property.

Protective Advances. The words "Protective Advances" means all advances paid by Mortgagee to cover the payment, performance and discharge of (i) all real estate taxes and assessments levied against the Property, (ii) all insurance premiums relating to the Property, (iii) all fees, expenses or advances in connection with or relating to the Property, (iv) sums advanced to cure any default hereunder or to protect the Property or otherwise assert or protect any of its rights and benefits under the Loan Documents, and (v) expenses incurred by Mortgagee to enforce obligations of Mortgagor under this Mortgage, together with interest on such amounts as provided in this Mortgage.

Real Property. The words "Real Property" is defined in the recitals section of this Mortgage.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Leases.

Senior Loan Payoff Amount. The words "Senior Loan Payoff Amount" mean the total amount from time to time which must be paid to satisfy the Loan in full, including payment of all principal as may be advanced and outstanding, together with Base Interest at 10% per annum (or the default rate set forth in the Note, if applicable), Contingent Interest that would be payable in the event the Properties were sold for fair market value the ALDI Make-Whole Amount, and the Make Whole Amount, plus any Protective Advances, accrued default interest, and any other amounts payable to Lender under the Loan Documents (including but not limited to amounts reimbursable for fees and costs).

Subordinate Mortgagee. The words "Subordinate Mortgagee" mean Bridgeview Bank Group, a Colorado state banking corporation.

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Subordinate Loan. The words "Subordinate Loan" means that certain loan from Subordinate Mortgagee to Mortgagor in the original principal amount of \$11,002,877.00 which will be secured by a second position mortgage on the Property and second position lien on all other Collateral, which such Subordinate Loan is subordinated to the Indebtedness due to recording priority and pursuant to the Intercreditor Agreement.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (1) PAYMENT OF THE INDEBTEDNESS AND (2) PERFORMANCE OF ANY AND ALL OBLIGATIONS OF MORTGAGOR UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS ALSO GIVEN TO SECURE ANY AND ALL OBLIGATIONS OF MORTGAGOR UNDER THAT CERTAIN LOAN AGREEMENT BETWEEN MORTGAGOR AND MORTGAGEE DATED AS OF JANUARY 9, 2013. ANY EVENT OF DEFAULT UNDER THE LOAN AGREEMENT, OR ANY OF THE RELATED DOCUMENTS REFERRED TO THEREIN, SHALL ALSO BE AN EVENT OF DEFAULT UNDER THIS MORTGAGE. THE NOTE AND THIS MORTGAGE ARE GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

MORTGAGOR'S REPRESENTATIONS AND WARRANTIES. Mortgagor warrants that: (a) this Mortgage is executed at Mortgagor's request; (b) Mortgagor has the full power, right, and authority to enter into this Mortgage; and (c) the provisions of this Mortgage do not conflict with, or result in a default under any agreement or other instrument binding upon Mortgagor and do not result in a violation of any law, regulation, court decree or order applicable to Mortgagor.

PAYMENT AND PERFORMANCE. Mortgagor shall pay to Mortgagee all Indebtedness secured by this Mortgage as it becomes due, and Mortgagor shall strictly perform all their respective obligations under the Note, this Mortgage, and the Loan Documents.

POSSESSION AND MAINTENANCE OF THE PROPERTY. Mortgagor agrees that Mortgagor's possession and use of the Property shall be governed by the following provisions:

Possession and Use. Until the occurrence of an Event of Default, Mortgagor may (a) remain in possession and control of the Property, (b) use, operate or manage the Property, and (c) collect any Rents from the Property.

Duty to Maintain. Mortgagor shall maintain the Property in tenantable condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

Hazardous Substances. The terms "hazardous waste," "hazardous substance," "disposal," "release," and "threatened release," as used in this Mortgage, shall have the same meanings as set forth in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq.

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("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 8901, et seq., or other applicable state or Federal laws, rules, or regulations adopted pursuant to any of the foregoing. The terms "hazardous waste" and "hazardous substance" shall also include, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos. Mortgagor authorizes Mortgagee and its agents to enter upon the Property to make such inspections and tests, at Mortgagor's expense, as Mortgagee may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Mortgagee shall be for Mortgagee's purposes only and shall not be construed to create any responsibility or liability on the part of Mortgagee to Mortgagor or to any other person. The representations and warranties contained herein are based on Mortgagor's due diligence in investigating the Property for hazardous waste and hazardous substances. Mortgagor hereby (a) releases and waives any future claims against Mortgagee for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws, and (b) agrees to indemnify and hold harmless Mortgagee against any and all claims, losses, liabilities, damages, penalties, and expenses which Mortgagee may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance on the properties. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Mortgagee's acquisition of any interest in the Property, whether by foreclosure or otherwise.

Nuisance, Waste. Mortgagor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Mortgagor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), soil, gravel or rock products without the prior written consent of Mortgagee.

Removal of Improvements. Mortgagor shall not demolish or remove any Improvements from the Real Property without the prior written consent of Mortgagee.

Mortgagee's Right to Enter. Mortgagee and its agents and representatives may enter upon the Real Property at all reasonable times to attend to Mortgagee's interests and to inspect the Property for purposes of Mortgagor's compliance with the terms and conditions of this Mortgage.

Compliance with Governmental Requirements. Mortgagor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property, including without limitation, the Americans with Disabilities Act. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests in the

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Property are not jeopardized. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interest.

Duty to Protect. Mortgagor shall do all acts which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

DUE ON SALE - CONSENT BY MORTGAGEE. Mortgagee may, at its option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without the Mortgagee's prior written consent, of all or any part of the Property, or any interest in the Property. A "sale or transfer" means the conveyance of Property or any right, title or interest therein; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract to deed, leasehold interest with a term greater than five years, lease option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of Real Property interest. Transfer also includes any change in ownership of any portion of the limited liability company interests of Mortgagor, directly or indirectly.

TAXES AND LIENS. The following provisions relating to the taxes and liens on the Property are a part of this Mortgage.

Payment. Mortgagor shall cause all taxes, special taxes, assessments, charges (including water and sewer), fines and impositions levied against or on account of the Property, and all claims for work done on or for services rendered or material furnished to the Property to be timely paid. Mortgagor shall maintain the Property free of all liens having priority over or equal to the interest of Mortgagee under this Mortgage, except for the lien of taxes and assessments not yet due and payable and except as otherwise provided in this Mortgage.

Right to Contest. Mortgagor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as law allows, and Mortgagee's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Mortgagor shall within 15 days after the lien arises or, if a lien is filed, within 15 days after Mortgagor has notice of the filing, secure the discharge of the lien, or if requested by Mortgagee, deposit with Mortgagee cash or a sufficient corporate surety bond or other security satisfactory to Mortgagee in an amount sufficient to discharge the lien plus any costs and attorneys' fees or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Mortgagor shall defend itself and Mortgagee and shall satisfy any adverse judgment before enforcement against the Property. Mortgagor shall name Mortgagee as an additional obligee under any surety bond furnished in the contest proceedings.

Evidence of Payment. Mortgagor shall upon demand furnish to Mortgagee satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Mortgagee at any time a written statement of the taxes and assessments against the Property.

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PROPERTY DAMAGE INSURANCE. The following provisions relating to insuring the Property are a part of this Mortgage.

Maintenance of Insurance. Mortgagor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Mortgagee. Mortgagor shall also procure and maintain comprehensive general liability insurance in such coverage amounts as Mortgagee may request with Mortgagee being named as additional insured in such liability insurance policies. Additionally, Mortgagor shall maintain such other insurance, including but not limited to hazard, business interruption, builders risk and boiler insurance, as Mortgagee may reasonably require. Policies shall be written in form, amounts, coverages and basis reasonably acceptable to Mortgagee and issued by a company or companies reasonably acceptable to Mortgagee. Mortgagor, upon request of Mortgagee, will deliver to Mortgagee from time to time the policies or certificates of insurance in form satisfactory to Mortgagee, including stipulations that coverages will not be cancelled or diminished without at least ten days' prior written notice to Mortgagee. Each insurance policy also shall include an endorsement providing that coverage in favor of Mortgagee will not be impaired in anyway by any act, omission or default of Mortgagor or any other person. Should the Real Property at anytime become located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Mortgagor agrees to obtain and maintain Federal Flood Insurance for the full unpaid principal balance of the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Mortgagee, and to maintain such insurance for the term of the loan.

Application of Proceeds. Mortgagor shall promptly notify Mortgagee of any loss or damage to the Property. Mortgagee may make proof of loss if Mortgagor fails to do so within fifteen (15) days of the casualty. Whether or not Mortgagee's security is impaired, Mortgagee may, at Mortgagee's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Mortgagee elects to apply the proceeds to restoration and repair, Mortgagor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Mortgagee. Mortgagee shall, upon satisfactory proof of such expenditure, pay or reimburse Mortgagor from the proceeds for the reasonable cost of repair or restoration if Mortgagor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Mortgagee has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Mortgagee under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Mortgagee holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to the Subordinate Mortgagee pursuant to the terms of the Subordinate Loans Documents.

Mortgagor's Report on Insurance. Upon request of Mortgagee, however not more than once a year, Mortgagor shall furnish to Mortgagee a report on each existing policy of

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insurance showing: (a) the name of the insurer; (b) the risks insured; (c) the amount of the policy; (d) the property insured, the then current replacement value of such property, and the manner of determining that value; and (e) the expiration date of the policy.

EXPENDITURES BY MORTGAGEE. If Mortgagor fails to comply with any provision of this Mortgage, or if any action or proceeding is commenced that would materially affect Mortgagee's interests in the Property, Mortgagee on Mortgagor's behalf may, but shall not be required to, take any action that Mortgagee deems appropriate. Any amount that Mortgagee expends in so doing will bear interest at the rate provided for in the Note from the date incurred or paid by Mortgagee to the date of repayment by Mortgagor. All such expenses, at Mortgagee's option, will (a) be payable on demand, (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (i) the term of any applicable insurance policy or (ii) the remaining term of the Note, or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. This Mortgage also will secure payment any Protective Advances which may exceed the stated principal amount of the debt referenced herein. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Mortgagee may be entitled on account of the default. Any such action by mortgagee shall not be construed as curing the default so as to bar Mortgagee from any remedy that it otherwise would have had.

WARRANTY; DEFENSE OF TITLE. The following provisions relating to ownership of the Property are a part of this Mortgage.

Title. Mortgagor warrants that: (a) Mortgagor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Mortgagee in connection with this Mortgage, including the Subordinate Loans, and (b) Mortgagor has the full right, power, and authority to execute and deliver this Mortgage to Mortgagee.

Defense of Title. Subject to the exception in the paragraph above, Mortgagor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Mortgagor's title or the interest of Mortgagee under this Mortgage, Mortgagor shall defend the action at Mortgagor's expense. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Mortgagee's own choice, and Mortgagor will deliver, or cause to be delivered, to Mortgagee such instruments as Mortgagee may request from time to time to permit such participation.

Compliance with Laws. Mortgagor warrants that the Property and Mortgagor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

CONDEMNATION. The following provisions relating to condemnation proceedings are a part of this Mortgage.

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Application of Net Proceeds. If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Mortgagee may at its election require that all or any portion of the net proceeds of the award be assigned to Mortgagee and applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Mortgagee in connection with the condemnation. Notwithstanding the provisions of this paragraph to the contrary, if any condemnation or taking of less than the entire Property occurs and provided that no Event of Default and no event or circumstance which with the passage of time, the giving of notice or both would constitute an Event of Default then exists, and if such partial condemnation, in the reasonable discretion of Mortgagee, has no material adverse effect on the operation or value of the Property, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by Mortgagor, and Mortgagee hereby agrees that in such event it shall not declare the Indebtedness to be due and payable, if it is not otherwise then due and payable.

Proceedings. If any proceeding in condemnation is filed, Mortgagor shall promptly notify Mortgagee in writing, and Mortgagor shall promptly take such steps as may be necessary to defend the action and obtain the award. Mortgagor may be the nominal party in such proceeding, but Mortgagee shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Mortgagor will deliver or cause to be delivered to Mortgagee such instruments as may be requested by it from time to time to permit such participation.

IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES. The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage.

Current Taxes, Fees and Charges. Upon request by Mortgagee, Mortgagor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Mortgagee to protect and continue Mortgagee's lien on the Real Property. Mortgagor shall reimburse Mortgagee for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

Taxes. The following shall constitute taxes to which this section applies: (a) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (b) a specific tax on Mortgagor which Mortgagor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (c) a tax on this type of Mortgage chargeable against the Mortgagee or the holder of the Note; and (d) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Mortgagor.

Subsequent Taxes. If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default (as

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defined below), and Mortgagee may exercise any or all of its available remedies for an Event of Default as provided below unless Mortgagor either (a) pays the tax before it becomes delinquent, or (b) contests the tax as provided above in the Taxes and Liens section and deposits with Mortgagee cash or a sufficient corporate surety bond or other security satisfactory to Mortgagee.

ASSIGNMENT OF RENTS AND LEASES. As further security for the indebtedness and the liabilities and obligations secured by this Mortgage, Mortgagor hereby absolutely and irrevocably grants, conveys, pledges, hypothecates, transfers and assigns unto Mortgagee all Rents now or hereafter due or payable for the occupancy or use of the Property or any portion thereof, and all leases and subleases, whether written or oral, with all security therefore, including without limitation, all guaranties thereof, now or hereafter affecting the Property. This is a present and absolute assignment, not an assignment for security purposes only, and Mortgagee's right to the Rents is not contingent upon, and may be exercised without possession of, the Property. Mortgagee confers upon Mortgagor a license ("License") to collect and retain the Rents as they become due and payable, until the occurrence of an Event of Default. Mortgagor represents, warrants, and covenants to and with Mortgagee that (a) the Rents have not been sold, assigned, transferred or set over by any instrument now in force and will not at any time during the term of this assignment be sold, assigned, transferred or set over; and (b) Mortgagor has the right to sell, assign, transfer and set over the Rents and to grant to and confer upon Mortgagee the rights, interests, powers and authorities granted and conferred by this Mortgage. Upon or at any time after the occurrence of an Event of Default, Mortgagee may, at its option, without notice, and whether or not the indebtedness shall have been declared due and payable, either in person or by agent, or by a receiver to be appointed by a court, with or without bringing any action or proceeding (a) enter upon, take possession of, manage and operate the Property, or any part thereof (including without limitation, making necessary repairs, alterations and improvements to the Property); (b) make, cancel, enforce or modify Leases; (c) obtain and evict tenants; (d) fix or modify Rents; (e) do any acts which Mortgagee deems reasonably proper to protect the security of this Mortgage, and (f) either with or without taking possession of the Property, in its own name or in the name of Mortgagor, collect and receive all or any Rents, including without limitation, those past due and unpaid. Upon written notice from Mortgagee, all tenants of and other obligors with respect to the Property hereby are directed by Mortgagor to pay promptly all Rents as they fall due to Mortgagee without further notice from Mortgagor. In connection with the foregoing, Mortgagee shall be entitled and empowered to employ attorneys and management, rental and other agents in and about the Property to effect the matters which Mortgagee is empowered to do, and if Mortgagee shall itself effect such matters, Mortgagee shall be entitled to charge and receive such reasonable management, rental and other fees as may be customary in the area in which the Property is located; and the reasonable fees, charges, costs and expenses of Mortgagee or such persons shall be so much additional indebtedness subject to the terms of this Mortgage. Mortgagee may apply all funds collected as aforesaid, less costs and expenses of operation and collection, including without limitation, reasonable attorneys' and agents' fees, charges, costs and expenses, upon any indebtedness in accordance with the terms of the Loan Agreement. The entering upon and taking possession of the Property and the collection of Rents and the application thereof as set forth in this Mortgage shall not cure or waive any default or invalidate any act done by Mortgagee.

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SECURITY AGREEMENT; FINANCING STATEMENTS. The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage.

Security Agreement and Fixture Filing. This instrument shall constitute a security agreement and fixture filing under the Uniform Commercial Code to the extent any of the Property constitutes fixtures or other personal property and shall constitute a security agreement with respect to all of the Personal Property, and Mortgagee shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time. In addition, for the purpose of securing the Indebtedness, Mortgagor hereby grants to Mortgagee, as secured party, a security interest in all of the property described below in, to, or under which Mortgagor now has or hereafter acquires any right, title or interest, whether present, future, or contingent: all equipment, inventory, accounts, general intangibles, instruments, documents, and chattel paper, as those terms are defined in the Uniform Commercial Code, and all other personal property of any kind (including without limitation money and rights to the payment of money), whether now existing or hereafter created, that are now or at any time hereafter (i) in the possession or control of Mortgagee in any capacity; (ii) erected upon, attached to, or appurtenant to, the Property; (iii) located or used on the Property or identified for use on the Property (whether stored on the Property or elsewhere); or (iv) used in connection with, arising from, related to, or associated with the Property or any of the personal property described herein, the construction of any improvements on the Property, the ownership, development, maintenance, leasing, management, or operation of the Property, the use or enjoyment of the Property, or the operation of any business conducted on the Property; including without limitation all such property more particularly described as follows:

(a) Buildings, structures and improvements, and building materials, fixtures and equipment to be incorporated into any buildings, structures or improvements;

(b) Goods, materials, supplies, fixtures, equipment, machinery, furniture and furnishings, including without limitation, all such items used for (i) generation, storage or transmission of air, water, heat, steam, electricity, light, fuel, refrigeration or sound; (ii) ventilation, air-conditioning, heating, refrigeration, fire prevention and protection, sanitation, drainage, cleaning, transportation, communications, maintenance or recreation; (iii) removal of dust, refuse, garbage or snow; (iv) transmission, storage, processing or retrieval of information; (v) surface and subsurface irrigation and sprinkler system equipment; and (v) floor, wall, ceiling and window coverings and decorations;

(c) Income, receipts, revenues, rents, issues and profits, including without limitation, room rents, minimum rents, additional rents, percentage rents, occupancy and user fees and charges, license fees, parking and maintenance charges and fees, tax and insurance contributions, proceeds of the sale of utilities and services, cancellation premiums, and

(d) Claims for damages arising from the breach of any Leases;

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- (e) Water and water rights, contracts with water districts, ditches and ditch rights, reservoirs and reservoir rights, stock or interest in irrigation or ditch companies, minerals, oil and gas rights, royalties, and lease or leasehold interests;
- (f) Plans and specifications prepared for the construction of any improvements, including without limitation, all studies, estimates, data, and drawings;
- (g) Documents, instruments and agreements relating to, or in any way connected with, the operation, control or development of the Property, including without limitation, any declaration of covenants, conditions and restrictions and any articles of incorporation, bylaws and other membership documents of any property owners association or similar group;
- (h) All of Mortgagor's rights of every kind under or pursuant to any declaration of covenants, conditions and restrictions or similar documents or instruments, which shall hereafter be filed in order to create a condominium community on the Property, and any modifications thereof or supplements thereto (collectively, the "Declaration"), and all of Mortgagor's rights under or pursuant to any and all other documents which may hereafter be executed or otherwise made effective with respect to the creation or modification of a condominium community on the Property or the creation of an association to govern or administer such community, including, without limitation, all development rights, special declarant rights, rights with respect to any design or architectural review committees, and other rights of Mortgagor as declarant under the Declaration;
- (i) Claims and causes of action, legal and equitable, in any form whether arising in contract or in tort, and awards, payments and proceeds due or to become due, including without limitation those arising on account of any loss of, damage to, taking of, or diminution in value of, all or any part of the Property or any personal property described herein;
- (j) Sales agreements, escrow agreements, deposit receipts, and other documents and agreements for the sale or other disposition of all or any part of the Property or any of the personal property described herein, and deposits, proceeds and benefits arising from the sale or other disposition of all or any part of the Property or any of the personal property described herein;
- (k) Policies or certificates of insurance, contracts, agreements or rights of indemnification, guaranty or surety, and awards, loss payments, proceeds, and premium refunds that may be payable with respect to such policies, certificates, contracts, agreements or rights;
- (l) Contracts, agreements, permits, licenses, authorizations and certificates, including without limitation all architectural contracts, construction contracts, management contracts, service contracts, maintenance contracts, franchise agreements, license agreements, building permits and operating licenses;

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(m) Trade names, trademarks, and service marks (subject to any franchise or license agreements relating thereto);

(n) Refunds and deposits due or to become due from any utility companies or governmental agencies;

(o) Replacements and substitutions for, modifications of, and supplements, accessions, addenda and additions to, all of the personal property described herein; and

(p) Books, records, correspondence, files and electronic media, and all information stored therein.

together with all products and proceeds of all of the foregoing, in any form, including all proceeds received, due or to become due from any sale, exchange or other disposition thereof, whether such proceeds are cash or non-cash in nature, and whether represented by checks, drafts, notes or other instruments for the payment of money ("Collateral").

In connection therewith, Mortgagor states the following:

(a) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefitting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(b) The Collateral is to be used by Mortgagor solely for business purposes.

(c) The Collateral will be kept at the Real Estate and will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code). The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

(d) The only persons having any interest in the Property are Mortgagor, Mortgagee and holders of interests, if any, expressly permitted hereby.

(e) No Financing Statement (other than Financing Statements showing the Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and the Mortgagor, at its own cost and expense, upon demand, will furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statements and other documents in form satisfactory to the Mortgagee and will do all such acts as the Mortgagee may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefitting the Mortgagee and no other party, and liens and encumbrances

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(if any) expressly permitted hereby; and the Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be desirable. The Mortgagor hereby irrevocably authorizes the Mortgagee at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto, without the signature of the Mortgagor that (i) indicate the Collateral (A) is comprised of all assets of the Mortgagor or words of similar effect, regardless of whether any particular asset comprising a part of the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or (B) as being of an equal or lesser scope or within greater detail as the grant of the security interest set forth herein, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether the Mortgagor is an organization, the type of organization and any organizational identification number issued to the Mortgagor, and (B) in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of the real property to which the Collateral relates. The Mortgagor agrees to furnish any such information to the Mortgagee promptly upon request. The Mortgagor further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by the Mortgagee in any jurisdiction prior to the date of this Mortgage. In addition, the Mortgagor shall make appropriate entries on its books and records disclosing the Mortgagor's security interests in the Collateral.

(f) Upon an Event of Default hereunder, the Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as the Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to the Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations, as provided in the Code. The Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Property. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by the Mortgagee which is reasonably convenient to both parties. The Mortgagee will give the Mortgagor at least ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of the Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. The Mortgagee may buy at any public sale. The Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the

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subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Property. If the Mortgagee so elects, the Property and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by the Mortgagee, shall be applied against the Indebtedness in such order or manner as the Mortgagee shall select. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition.

(g) The terms and provisions contained in this section, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

(h) This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Property. The addresses of the Mortgagor (Debtor) and the Mortgagee (Secured Party) are hereinbelow set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Property are located. The Mortgagor is the record owner of the Property.

(i) To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between the Mortgagor and/or Mortgagee or their agents, as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement of said Leases, together with all of the right, title and interest of the Mortgagor, as lessor thereunder.

(j) The Mortgagor represents and warrants that:

(i) the Mortgagor is the record owner of the Property;

(ii) the Mortgagor's chief executive office is located in the State of Colorado;

(iii) the Mortgagor's state of formation is the State of Colorado;

(iv) the Mortgagor's exact legal name is as set forth on Page 1 of this Mortgage; and

(v) the Mortgagor has an Illinois organizational identification number.

(k) The Mortgagor hereby agrees that:

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(i) where Collateral is in possession of a third party, the Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of the Mortgagee;

(ii) the Mortgagor will cooperate with the Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

(iii) until the Indebtedness is paid in full, the Mortgagor will not change the state where it is located or change its company name without giving the Mortgagee at least thirty (30) days prior written notice in each instance.

Security Interest. By execution of this Mortgage by Mortgagor, Mortgagee is hereby authorized to file UCC-1 financing statements and amendments thereto in accordance with the Uniform Commercial Code. Upon request by Mortgagee, Mortgagor shall execute financing statements and take whatever other action is requested by Mortgagee to perfect and continue Mortgagee's security interest in the Rents and Personal Property. In addition to recording this Mortgage in the real property records, Mortgagee may, at any time and without further authorization from Mortgagor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Mortgagor shall reimburse Mortgagee for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall assemble the Personal Property in a manner and at a place reasonably convenient to Mortgagor, Subordinate Mortgagee and Mortgagee and make it available to Subordinate Mortgagee and/or Mortgagee in accordance with the terms of the Intercreditor Agreement.

Addresses. The mailing addresses of Mortgagor (debtor) and Mortgagee (secured party), from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code), are as stated on the first page of this Mortgage.

FURTHER ASSURANCES; ATTORNEY-IN-FACT. The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage.

Further Assurances. At any time, and from time to time, upon request of Mortgagee, Mortgagor will make, execute and deliver, or will cause to be made, executed or delivered, to Mortgagee or to Mortgagee's designee, and when requested by Mortgagee, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Mortgagee may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may in the sole opinion of Mortgagee, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (a) the obligations of Mortgagor and Mortgagee under the Note, this Mortgage, and the Loan Documents, and (b) the liens and security interests created by this

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Mortgage as liens on the Property, whether now owned or hereafter acquired by Mortgagor. Unless prohibited by law or agreed to the contrary by Mortgagee in writing, Mortgagor shall reimburse Mortgagee for all costs and expenses incurred in connection with the matters referred to in this paragraph.

Attorney-in-Fact. If Mortgagor fails to do any of the things referred to in the preceding paragraph, Mortgagee may do so for and in the name of Mortgagor and at Mortgagor's expense. For such purposes, Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's attorney-in-fact for the purpose of making, executing, delivering filing, recording, and doing all other things as may be necessary or desirable, in Mortgagee's sole opinion, to accomplish the matters referred to in the preceding paragraph.

FULL PERFORMANCE. Mortgagee may, upon production of the Note duly cancelled, release this Mortgage, and such release shall constitute a release of the lien for all such additional sums and expenditures made pursuant to this Mortgage. Any release fees required by law shall be paid by Mortgagor, if permitted by applicable law.

DEFAULT. Each of the following, at the option of Mortgagee, shall constitute an event of default ("Event of Default") under this Mortgage:

Default on Indebtedness. Failure of Mortgagor to make any payment when due on the Loan or Subordinate Loans.

Other Defaults. Failure of Mortgagor or any Mortgagor to comply with or to perform when due any other term, obligation, covenant or condition contained in this Mortgage or in any of the Loan Documents, or failure of Mortgagor to comply with or to perform any other term, obligation, covenant or condition contained in any other agreement between Mortgagee and Mortgagor relating to the Loan secured by this Mortgage, or under any documents evidencing or securing the Subordinate Loans.

False Statements. Any warranty, representation or statement made or furnished to Mortgagee by or on behalf of Mortgagee under this Mortgage or the Loan Documents is false or misleading in any material respect at the time made or furnished, or becomes false or misleading at any time thereafter.

Defective Collateralization. This Mortgage or any of the Loan Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected first priority security interest or lien) at any time and for any reason.

Insolvency. The insolvency of Mortgagor, the appointment of a receiver for any part of Mortgagor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Mortgagor.

Creditor or Forfeiture Proceedings. Commencement of foreclosure or forfeiture proceedings, whether by judicial proceeding, self-help, repossession or any other method,

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by any creditor of Mortgagor, any creditor of any Mortgagor against any collateral securing the Indebtedness, or by any governmental agency. This includes a garnishment, attachment, or levy on or of any of Mortgagor's deposit accounts with Mortgagee.

Transfer of Property. Except as otherwise provided herein, the sale, transfer, hypothecation, assignment, or conveyance of the Property or the Improvements or any portion thereof or interest therein by Mortgagor without Mortgagee's prior written consent.

Condemnation. All or any material portion of the Property is condemned, seized, or appropriated without compensation, and Mortgagor does not within 30 days after such condemnation, seizure, or appropriation, initiate and diligently prosecute appropriate action to contest in good faith the validity of such condemnation, seizure, or appropriation.

RIGHTS AND REMEDIES ON DEFAULT. Upon the occurrence of any Event of Default and at any time thereafter, Mortgagee shall give written notice to Mortgagor which notice shall describe the nature of the Event of Default. Mortgagor shall have three days in which to cure any default that can be cured by the payment of money and 30 days in which to cure any default that cannot be cured solely by the payment of money (which 30-day period may be extended for such time as may be reasonably necessary, not to exceed an additional 60 days, if the default cannot reasonably be cured in the initial 30-day period, provided that Mortgagor is making reasonable efforts to cure such default during such period). Upon the expiration of the applicable cure period, and at any time thereafter, Mortgagee, at its option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

Accelerate Indebtedness. Mortgagee shall have the right at its option without further notice to Mortgagor or Mortgagee to declare the entire Indebtedness immediately due and payable.

Foreclosure.

- (a) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Act (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.
- (b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees,

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

Application of Proceeds. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion.

Appoint 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, upon petition by Mortgagee, appoint a receiver for the Property in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Property or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or any other holder of the Note may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Property (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Property for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

Mortgagee's Right of Possession in Case of Default. At any time after an Event of Default has occurred, Mortgagor shall, upon demand of Mortgagee, surrender to

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Mortgagee possession of the Property. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and its employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Property, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Property, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to:

- (a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (b) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- (c) extend or modify any then existing Leases and to enter into new Leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date 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 from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;
- (d) make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Property as Mortgagee deems are necessary;
- (e) insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation and management thereof; and
- (f) receive all of such avails, rents, issues and profits.

Application of Income Received by Mortgagee. Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Property to the payment of or on account of the following, in such order as Mortgagee may determine:

- (a) to the payment of the operating expenses of the Property, including cost of management and leasing thereof (which shall include compensation to

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Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

- (b) to the payment of taxes and special assessments now due or which may hereafter become due on the Property; and
- (c) to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

Compliance with Illinois Mortgage Foreclosure Law.

- (a) If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.
- (b) If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.
- (c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

Tenancy at Sufferance. If Mortgagor remains in possession of the Property after the Property is sold as provided above or Mortgagee otherwise becomes entitled to possession of the Property upon default of Mortgagor, Mortgagor shall become a tenant at sufferance of Mortgagee or the purchaser of the Property and shall, at Mortgagee's option, either (a) pay a reasonable rental for the use of the Property, or (b) vacate the Property immediately upon the demand of Mortgagee.

Other Remedies. Mortgagee shall have any other right or remedy provided in this Mortgage or the Note or by law.

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Waiver; Election of Remedies. A waiver by any party of a breach of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's rights otherwise to demand strict compliance with that provision or any other provision. Election by Mortgagee to pursue any remedy provided in this Mortgage, the Note, in any Loan Document, or provided by law shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Mortgagor or Mortgagor under this Mortgage after failure of Mortgagor or Mortgagor to perform shall not affect Mortgagee's right to declare a default and to exercise any of its remedies.

Expenses Relating to Note and Mortgage.

- (a) The Mortgagor will pay all expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Note, this Mortgage or any of the other Loan Documents, including without limitation, the Mortgagee's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Note, this Mortgage and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided the Mortgagor shall not be required to pay any income or franchise taxes of the Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Note and this Mortgage. The Mortgagor recognizes that, during the term of this Mortgage, the Mortgagee:
- (i) May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which the Mortgagee shall be a party by reason of the Loan Documents or in which the Loan Documents or the Property are involved directly or indirectly;
 - (ii) May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;
 - (iii) May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, the Mortgagee's taking possession of and managing the Property, which event may or may not actually occur;
 - (iv) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;
 - (v) May enter into negotiations with the Mortgagor or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default

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hereunder, the sale of the Property, the assumption of liability for any of the Indebtedness or the transfer of the Property in lieu of foreclosure; or

(vi) May enter into negotiations with the Mortgagor or any of its agents, employees or attorneys pertaining to the Mortgagee's approval of actions taken or proposed to be taken by the Mortgagor which approval is required by the terms of this Mortgage.

(b) All expenses, charges, costs and fees described in this section shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by the Mortgagor forthwith upon demand.

Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

NOTICES TO MORTGAGOR AND OTHER PARTIES. Any notice under this Mortgage shall be in writing, may be sent by facsimile (unless otherwise required by law), and shall be effective when actually delivered or when deposited with a nationally recognized overnight courier, or, if mailed, shall be deemed effective when deposited in the United States mail first class, certified or registered mail, postage prepaid, directed to the addresses shown near the beginning of this Mortgage. Any party may change its address for notices under this Mortgage by giving formal written notice to the other parties, specifying that the purpose of the notice is to change the party's address. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Mortgagee's address, as shown near the beginning of this Mortgage. For notice purposes, Mortgagor agrees to keep Mortgagee and Trustee informed at all times of Mortgagor's current address.

MISCELLANEOUS PROVISIONS. The following miscellaneous provisions are a part of this Mortgage:

Additional Indebtedness Secured. All persons and entities with any interest in the Property or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Note and interest thereon; this Mortgage secures any and all other amounts which may become due under the Note or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by Mortgagee to operate,

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manage or maintain the Property or to otherwise protect the Property or the lien of this Mortgage.

Amendments. This Mortgage, together with any Loan Documents and the Intercreditor Agreement, constitutes the entire understanding and agreement of the parties as to the matters set forth in this Mortgage. No alteration of or amendment to this Mortgage shall be effective unless given in writing and signed by the party or parties sought to be charged or bound by the alteration or amendment.

Financial Reports. Mortgagor shall provide annual, financial statements in accordance with the terms and conditions in the Note.

Applicable Law. This Mortgage has been delivered to Mortgagee and accepted by Mortgagee in the State of Colorado. This Mortgage shall be governed by and construed in accordance with the laws of the State of Colorado, save and except that with respect to any foreclosure actions or appointment of a receiver or any other actions where the jurisdiction of the Property controls, in which event this Mortgage shall be governed by the laws of the State of Illinois.

Caption Headings. Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

Indemnity. Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Property; and (c) the ownership, leasing, use, operation or maintenance of the Property, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Property to Mortgagee in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Mortgagee harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Mortgagee. All costs provided for herein and paid for by Mortgagee shall be so much additional Indebtedness and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Rate.

Invalidity of Provisions. In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an

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equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

Maximum Indebtedness. Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to \$26,700,000; provided, however, in no event shall Mortgagee be obligated to advance funds in excess of the face amount of the Note.

Merger. There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at anytime held by or for the benefit of Mortgagee in any capacity, without the written consent of Mortgagee.

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

Mortgagee's Right of Inspection. Mortgagee and its representatives shall have the right to inspect the Property and the books and records with respect thereto at all reasonable times upon not less than twenty-four (24) hours prior notice to Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

Release Upon Payment and Discharge of Mortgagor's Obligations. Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release.

Waiver of Rights. The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

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

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

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

Municipal Requirements. Mortgagor shall not by act or omission permit any building or other improvement on Property not subject to the lien of this Mortgage to rely on the Property or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Property or any interest therein to be so used. Similarly, no building or other improvement on the Property shall rely on any Property not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subparagraph shall be void.

Option of Mortgagee to Subordinate. At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Property upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Property are situated.

Relationship of Mortgagee and Mortgagor. Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

Rights of Tenants. Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Property having an interest in the Property prior to that of Mortgagee. The failure to join any such tenant or tenants of the Property as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining

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unpaid after foreclosure and sale of the Property, any statute or rule of law at any time existing to the contrary notwithstanding.

Severability. If a court of competent jurisdiction finds any provision of this Mortgage to be invalid or unenforceable as to any person or circumstance, such finding shall not render that provision invalid or unenforceable as to any other persons or circumstances. If feasible, any such offending provision shall be deemed to be modified to be within the limits of enforceability or validity; however, if the offending provision cannot be so modified, it shall be stricken and all other provisions of this Mortgage in all other respects shall remain valid and enforceable.

Subordination of Property Manager's Lien. Any property management agreement for the Property entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Property shall be subject and subordinate to the lien of this Mortgage and shall provide that Mortgagee may terminate such agreement at any time after the occurrence of an Event of Default hereunder. Such property management agreement or a short form thereof, at Mortgagee's request, shall be recorded with the Recorder of Deeds of the county where the Property are located. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a subordination of the management agreement with Mortgagee in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Mortgage.

Successors and Assigns. Subject to the limitations stated in this Mortgage on transfer of Mortgagor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Mortgagor, Mortgagee, without notice to Mortgagor, may deal with Mortgagor's successors with reference to this Mortgage and the Indebtedness by way of forbearance or extension without releasing Mortgagor from the obligations of this Mortgage or liability under the Indebtedness.

Time of the Essence. Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Note and the other Loan Documents and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

Waivers and Consents. Mortgagee shall not be deemed to have waived any rights under this Mortgage (or under the Loan Documents) unless such waiver is in writing and signed by Mortgagee. No delay or omission on the part of Mortgagee in exercising any right shall operate as a waiver of such right or any other right. A waiver by any party of a provision of this Mortgage shall not constitute a waiver of or prejudice the party's right otherwise to demand strict compliance with that provision or any other provision. No prior waiver by Mortgagee, nor any course of dealing between Mortgagee and Mortgagor or Mortgagor,

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shall constitute a waiver of any of Mortgagee's rights or any of Mortgagor's obligations as to any future transactions. Whenever consent by Mortgagee is required in this Mortgage, the granting of such consent by Mortgagee in any instance shall not constitute continuing consent to subsequent instances where such consent is required.

Waiver of Right to Trial by Jury. MORTGAGOR HERETO HEREBY KNOWINGLY, VOLUNTARILY, IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF THIS MORTGAGE. MORTGAGOR HERETO FURTHER AGREES THAT IT WILL NOT SEEK TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE, OR HAS NOT BEEN, WAIVED.

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Signature page to follow.]*

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EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION - PARCEL 1

LOTS 6, 7, 8, 9, 10 AND THAT PART OF THE STRIP OF LAND BETWEEN LOTS 6 TO 10 BOTH INCLUSIVE AND LOT 11, WHICH WAS SHOWN ON THE PLAT OF S.S. HAYES' KELVYN GROVE ADDITION TO CHICAGO AS A PRIVATE ALLEY, BUT WHICH HAS NOW BEEN TERMINATED BY THE OWNERS OF ALL OF THE ABUTTING LOTS BY DECLARATION OF TERMINATION RECORDED AS DOCUMENT 12919799, (EXCEPT THAT PART LYING NORTHEASTERLY OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT 1.44 FEET WEST OF THE NORTHWEST CORNER OF LOT 6; THENCE SOUTHEASTERLY AT A RADIUS OF 355.06 FEET, AN ARC DISTANCE OF 184.55 FEET THEREOF TO A POINT 2.13 FEET WEST OF THE SOUTHEAST CORNER OF LOT 10); ALSO,

LOTS 11, 12, 13, 14, 15 AND THE EAST 25.00 FEET OF LOT 16 ALL IN BLOCK 3 IN S.S. HAYES' KELVYN GROVE ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; ALSO,

THE NORTH 10.00 FEET OF THE EAST 240.00 FEET MORE OR LESS OF VACATED WEST PARKER AVENUE, LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF LOTS 10 TO 13 INCLUSIVE AND THE SOUTH LINE OF LOT 10 PRODUCED WEST 15.00 FEET IN BLOCK 3 OF S.S. HAYES' KELVYN GROVE ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTHWEST 1/4 OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

LEGAL DESCRIPTION - PARCEL 2

THAT PART OF LOTS 23 AND 24 AND THE VACATED ALLEY NORTH OF AND ADJOINING SAID LOTS IN THORGERSEN AND ERICKSEN'S SUBDIVISION OF LOTS 1 TO 15 AND 26 TO 33 AND THE PRIVATE ALLEY IN BLOCK 6 IN S.S. HAYES' KELVYN GROVE ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 11, 1917 AS DOCUMENT NUMBER 6086158, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF SAID LOT 24 WITH THE WEST LINE OF THE EAST 19 FEET OF SAID LOT 24; THENCE NORTH 02 DEGREES 02 MINUTES 08 SECONDS WEST, ALONG AN ASSUMED BEARING, BEING SAID WEST LINE OF THE EAST 19 FEET AND THE NORTHERLY EXTENSION THEREOF A DISTANCE OF 129.36 FEET; THENCE NORTH 88 DEGREES 34 MINUTES 17 SECONDS EAST 26.36 FEET; THENCE SOUTH 01 DEGREES 25 MINUTES 43 SECONDS EAST 129.38 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 23; THENCE SOUTH 88 DEGREES 36 MINUTES 43 SECONDS WEST ALONG SAID SOUTH LINE AND THE SOUTH LINE OF SAID LOT 24 A DISTANCE OF 24.99 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

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LEGAL DESCRIPTION - PARCEL 3

THAT PART OF LOTS 22 AND 23 AND THE VACATED ALLEY NORTH OF AND ADJOINING SAID LOTS IN THORGERSEN AND ERICKSEN'S SUBDIVISION OF LOTS 1 TO 15 AND 26 TO 33 AND THE PRIVATE ALLEY IN BLOCK 6 IN S.S. HAYES' KELVYN GROVE ADDITION TO CHICAGO, A SUBDIVISION OF THE SOUTHWEST QUARTER OF SECTION 27, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, RECORDED APRIL 11, 1917 AS DOCUMENT NUMBER 6088158, DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTH LINE OF LOT 24 IN SAID THORGERSEN AND ERICKSEN'S SUBDIVISION WITH THE WEST LINE OF THE EAST 19 FEET OF SAID LOT 24; THENCE NORTH 02 DEGREES 02 MINUTES 08 SECONDS WEST, ALONG AN ASSUMED BEARING, BEING SAID WEST LINE OF THE EAST 19 FEET AND THE NORTHERLY EXTENSION THEREOF A DISTANCE OF 129.36 FEET; THENCE NORTH 88 DEGREES 34 MINUTES 17 SECONDS EAST 26.36 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 88 DEGREES 34 MINUTES 17 SECONDS EAST 31.84 FEET; THENCE SOUTH 01 DEGREES 25 MINUTES 43 SECONDS EAST 129.40 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 22; THENCE SOUTH 88 DEGREES 36 MINUTES 43 SECONDS WEST ALONG SAID SOUTH LINE AND THE SOUTH LINE OF SAID LOT 23 A DISTANCE OF 31.84 FEET TO A POINT 24.99 FEET EAST OF THE POINT OF COMMENCEMENT AS MEASURED ALONG SAID SOUTH LINES; THENCE NORTH 01 DEGREES 25 MINUTES 43 SECONDS WEST 129.38 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

JUNE 18, 2014
CHICAGO-EXHIBIT-FORECLOSURE.DOC

PIN: Affects Portions of 13-27-301-008 and 13-27-301-010-0000
Address: 4600 West Schubert Ave.
Chicago, Illinois 60639

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