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Doc#: 1430441090 Fee: \$102.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 10/31/2014 03:56 PM Pg: 1 of 33

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785

The property identified as: PIN: 15-17-403-026-0000

Address:

Street: Hillside Town Center

Street line 2: 0 Oak Street

City: Hillside

State: IL

ZIP Code: 60162

Lender: Wells Fargo Bank, National Association; and CITIGROUP Global Markets Realty Corp.

Borrower: BRE DDR BR HILLSIDE IL LLC

Loan / Mortgage Amount: \$800,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 777.0 et seq. because it is commercial property.

Certificate number: 7BF8931C-A85A-4A52-903C-07C162551703

Execution date: 10/07/2014

NA- 667789 IL3
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PREPARED BY AND UPON
RECORDATION RETURN TO:
Cadwalader, Wickersham & Taft LLP
227 West Trade Street, Suite 2400
Charlotte, North Carolina 28202
Attention: James P. Carroll, Esq.

Property of Cook County Clerk's Office

BRE DDR BR HILLSIDE IL LLC,
as mortgagor
(Individual Borrower)

**WELLS FARGO BANK, NATIONAL ASSOCIATION and CITIGROUP GLOBAL
MARKETS REALTY CORP.,**
collectively as mortgagee
(Lender)

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

Dated: As of October 17, 2014

Address: ^{Hillside} Hillside Town Center, ~~Chicago~~, Illinois
Tax Parcel No.: 15-17-403-026-0000 (Lot 2)
15-17-404-043-0000 (Lot 3)
15-17-404-045-0000 (Lot 5)
15-17-404-047-0000 (Lot 7)
15-17-405-005-0000 (Lot 8)
15-17-405-006-0000 (Lot 9)
15-17-405-007-0000 (Lot 10)

County: Cook

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

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Security Instrument**") is made as of this 17th day of October, 2014, by **BRE DDR BR HILLSIDE IL LLC**, a Delaware limited liability company, having its principal place of business at c/o Blackstone Real Estate Partners VII L.P., 345 Park Avenue, New York, New York 10154, as individual borrower ("**Individual Borrower**"), to **WELLS FARGO BANK, NATIONAL ASSOCIATION**, having an address at Wells Fargo Center, 1901 Harrison Street, 2nd Floor, Oakland, California 94612 (together with its successors and assigns, "**Wells**") and **CITIGROUP GLOBAL MARKETS REALTY CORP.** having an address at 390 Greenwich Street, 7th Floor, New York, New York 10013, collectively as mortgagee (together with its successors and assigns, "**Citi**"; together with Wells, collectively, "**Lender**").

WITNESSETH:

WHEREAS, this Security Instrument is given to secure a loan (the "**Loan**") in the maximum aggregate principal sum of **EIGHT HUNDRED MILLION AND NO/100 DOLLARS (\$800,000,000.00)** advanced pursuant to that certain Loan Agreement, dated as of the date hereof, between the parties identified on the signature pages thereof, collectively as Borrower (each individually or collectively as the context may require, "**Borrower**"), and Lender (as the same may be amended, restated, replaced, supplemented, renewed, extended or otherwise modified from time to time, the "**Loan Agreement**") and evidenced by (i) that certain Promissory Note A-1, dated the date hereof, made by Borrower and payable to the order of Wells in the principal sum of **FOUR HUNDRED FORTY MILLION AND NO/100 DOLLARS (\$440,000,000.00)** (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Note A-1**") and (ii) that certain Promissory Note A-2, dated the date hereof, made by Borrower and payable to the order of Citi in the principal sum of **THREE HUNDRED SIXTY MILLION AND NO/100 DOLLARS (\$360,000,000.00)** (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Note A-2**", and together with Note A-1, the "**Note**");

WHEREAS, Individual Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement), which has an aggregate maximum principal amount of **\$800,000,000.00** and the performance of all of the obligations of Borrower under the Note, the Loan Agreement and the other Loan Documents (as herein defined); and

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are intended to be, and are hereby, secured by this Security Instrument (the Loan Agreement, the Note, this Security Instrument and all other documents evidencing or securing the Debt or

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executed or delivered in connection therewith, are hereinafter referred to collectively as the "Loan Documents").

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE 1 - GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Individual Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Lender and its successors and assigns all of Individual Borrower's right, title and interest in and to the following property rights, interests and estates, whether now owned or hereafter acquired by Individual Borrower (collectively, the "**Property**"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) Additional Land. All additional lands, estates and development rights (to the extent assignable), in each instance, hereafter acquired by Individual Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise, be expressly made subject to the lien of this Security Instrument;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights (to the extent assignable), and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversions and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, rights of dower, rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Individual Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "goods" and "equipment," as such terms are defined in Article 9 of the Uniform Commercial Code (hereinafter defined), now owned or hereafter acquired by Individual Borrower, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Individual Borrower and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under Leases

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(hereinafter defined) or guests or invitees at the Property except to the extent that Individual Borrower shall have any right or interest therein;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Individual Borrower which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Individual Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"; the Land, the Improvements and the Fixtures are collectively referred to as the "**Real Property**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to Leases, except to the extent that Individual Borrower shall have any right or interest therein;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever as defined in and subject to the provisions of the Uniform Commercial Code, whether tangible or intangible, other than Fixtures, which are now or hereafter owned by Individual Borrower and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereof or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Individual Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "**Uniform Commercial Code**"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above. Notwithstanding the foregoing, "Personal Property" shall not include any personal property belonging to tenants under Leases or guests or invitees at the Property (as hereinafter defined);

(h) Leases and Rents. All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases,

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subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into (collectively, the "Leases"), whether before or after the filing by or against Individual Borrower of any petition for relief under 11 U.S.C. § 101 et seq., as the same may be amended from time to time (the "Bankruptcy Code") and all right, title and interest of Individual Borrower, its successors and assigns therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements whether paid or accruing before or after the filing by or against Individual Borrower of any petition for relief under the Bankruptcy Code (collectively, the "Rents") and all proceeds, to the extent assignable, from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(i) Condemnation Awards. All Awards which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(j) Insurance Proceeds. All Insurance Proceeds in respect of the Property under any Policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any Policies, judgments, or settlements made in lieu thereof, in connection with a Casualty to the Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with reduction in Taxes or Other Charges charged against the Property;

(l) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, Insurance Proceeds and Awards, into cash or liquidation claims;

(m) Rights. The right, in the name and on behalf of Individual Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(n) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof and all right, title and interest of Individual Borrower therein and thereunder, including, without limitation, the right, upon the occurrence and during the continuation of an Event of Default under the Loan Agreement, to receive and collect any sums payable to Individual Borrower thereunder;

(o) Trademarks. To the extent assignable, all tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

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(p) Accounts. All reserves, escrows and deposit accounts maintained by Individual Borrower with respect to the Property, including, without limitation, all accounts established or maintained pursuant to (i) the Cash Management Agreement and (ii) the Lockbox Agreement; together with all deposits or wire transfers made to such accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(q) Letter of Credit. All letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) Individual Borrower now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.1;

(r) Tort Claims. All commercial tort claims Individual Borrower now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.1;

(s) Interest Rate Protection Agreement. The Interest Rate Protection Agreement, including, but not limited to, all "accounts", "chattel paper", "general intangibles" and "investment property" (as such terms are defined in the Uniform Commercial Code as from time to time in effect) constituting or relating to the foregoing; and all products and proceeds of any of the foregoing ;and

(t) Other Rights. Any and all other rights of Individual Borrower in and to the items set forth in Subsections (a) through (s) above.

Section 1.2 Assignment of Rents. Individual Borrower hereby absolutely and unconditionally assigns to Lender all of Individual Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Individual Borrower that this assignment constitutes a present, absolute and irrevocable assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Cash Management Agreement and Section 7.1(h) of this Security Instrument, Lender grants to Individual Borrower a revocable license to collect, receive, use and enjoy the Rents and Individual Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Individual Borrower in the Property. By executing and delivering this Security Instrument, Individual Borrower hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures (including in any event all "fixtures" (as defined in Article 9 of the Uniform Commercial Code) located on the Land), the Equipment and the Personal Property and other property constituting the Property, whether now owned or hereafter acquired, to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "Collateral"). If an Event of Default shall occur and be continuing, Lender, in addition to any

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other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Individual Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Individual Borrower shall pay to Lender on written demand any and all out of pocket expenses, including reasonable third party legal expenses and attorneys' fees of outside counsel, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Individual Borrower in accordance with the provisions hereof at least ten (10) business days prior to such action, shall, except as otherwise provided by applicable law, constitute commercially reasonable notice to Individual Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper. Individual Borrower's (debtor's) principal place of business is as set forth on page one hereof and the address of Lender (secured party) is as set forth on page one hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, and this Security Instrument upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Individual Borrower hereby authorizes Lender at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable law, as applicable to all or part of the fixtures or Personal Property for purposes of evidencing the security interests granted to Lender hereunder. For purposes of such filings, Individual Borrower agrees to furnish any information requested by Lender promptly upon request by Lender. Individual Borrower also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto and continuation statements. Individual Borrower hereby irrevocably constitutes and appoints Lender and any officer or agent of Lender, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of Individual Borrower or in Individual Borrower's own name to, upon the occurrence and during the continuation of an Event of Default, execute in Individual Borrower's name any documents and otherwise to carry out the purposes of this Section 1.4, to the extent that Individual Borrower's authorization above is not sufficient. To the extent permitted by law, Individual Borrower hereby ratifies all acts said attorneys-in-fact shall lawfully do or cause to be done in the future by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable.

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Section 1.5 Pledges of Monies Held. Individual Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender, including, without limitation, any sums deposited in the Lockbox Account, the Cash Management Account, the Reserve Funds and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Security Instrument.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever, pursuant to the terms and conditions set forth herein and in the Loan Documents;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall perform the Other Obligations (hereinafter defined) as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Individual Borrower's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release except as set forth in the last sentence of Section 9.5.

ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following the amount of which, together with the Debt, does not exceed Eight Hundred Million and No/100 Dollars (\$800,000,000.00) in the aggregate principal amount (collectively, the "**Other Obligations**"):

- (a) the performance of all other obligations of Individual Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3 Debt and Other Obligations. The obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "**Obligations.**"

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ARTICLE 3 - INDIVIDUAL BORROWER COVENANTS

Individual Borrower covenants and agrees that:

Section 3.1 Payment of Debt. Individual Borrower will pay, or cause to be paid, the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument.

Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 Insurance. Individual Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Individual Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.4 Maintenance of Property. Individual Borrower shall cause the Property to be maintained in a good and safe condition and repair, in all material respects, normal wear and tear excepted. The Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered (except for normal replacement of the Fixtures, the Equipment or the Personal Property, tenant finish and refurbishment of the Improvements) without the consent of Lender or as otherwise permitted pursuant to the Loan Agreement. Individual Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated, and shall complete and pay for any structure at any time in the process of construction or repair on the Land in each case as, and to the extent, provided and governed by the provisions of the Loan Agreement.

Section 3.5 Waste. Individual Borrower shall not commit or suffer any material waste of the Property or make any change in the use of the Property which reasonably might be expected to materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that reasonably might be expected to invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that reasonably might be expected to in any way materially impair the security of this Security Instrument. Individual Borrower will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.6 Payment for Labor and Materials. (a) Subject to Section 3.6(b) hereof, Individual Borrower will promptly pay or cause to be paid when due all bills and costs for labor, materials, and specifically fabricated materials ("**Labor and Material Costs**") incurred in connection with the Property and not permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in

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respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

(b) After prior written notice to Lender, Individual Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any of the Labor and Material Costs, provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Security Instrument or any of the other Loan Documents, (ii) Individual Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Individual Borrower and from the Property or Individual Borrower shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Individual Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Individual Borrower shall have furnished the security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

Section 3.7 Performance of Other Agreements. Individual Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Individual Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.8 Change of Name, Identity or Structure. Individual Borrower shall not change Individual Borrower's name, identity (including its trade name or names) or, if not an individual, Individual Borrower's corporate, partnership or other structure without notifying Lender of such change in writing at least thirty (30) days prior to the effective date of such change and, in the case of a change in Individual Borrower's structure, without first obtaining the prior written consent of Lender, except as otherwise permitted pursuant to Section 5.2.10 of the Loan Agreement. Individual Borrower shall execute and deliver to Lender, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Individual Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Individual Borrower intends to operate the Property, and representing and warranting that Individual Borrower does business under no other trade name with respect to the Property.

Section 3.9 Title. Individual Borrower has good and insurable fee simple title to the real property comprising part of the Property and good title to the balance of such Property, free and clear of all Liens whatsoever except the Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority Lien on the Property, subject

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only to Permitted Encumbrances and the Liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. To Borrower's knowledge, except as otherwise disclosed in the Title Insurance Policy, there are no claims for payment for work, labor or materials affecting the Property which are past due and are or may become a Lien prior to, or of equal priority with, the Liens created by the Loan Documents unless such claims for payments are being contested in accordance with the terms and conditions of the Loan Agreement or this Security Instrument.

Section 3.10 Letter of Credit Rights. If Individual Borrower is at any time a beneficiary under a letter of credit relating to (i) any Major Lease or (ii) during the continuance of an Event of Default, any other lease or any of the properties, rights, titles and interests referenced in Section 1.1 of this Security Instrument now or hereafter issued in favor of Individual Borrower, then Individual Borrower shall promptly notify Lender thereof and, at the request and option of Lender, Individual Borrower shall use commercially reasonable efforts to, pursuant to an agreement in form and substance reasonably satisfactory to Lender, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Lender of the proceeds of any drawing under the letter of credit or (ii) arrange for Lender to become the transferee beneficiary of the letter of credit, with Lender agreeing, in each case that the proceeds of any drawing under the letter of credit are to be applied as provided in Section 7.2 of this Security Instrument.

ARTICLE 4 - OBLIGATIONS AND RELIANCES

Section 4.1 Relationship of Individual Borrower and Lender. The relationship between Individual Borrower (or any other Borrower) and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Individual Borrower (or any other Borrower), and no term or condition of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Individual Borrower (or any other Borrower) and Lender to be other than that of debtor and creditor.

Section 4.2 No Reliance on Lender. The general partners, members, principals and (if Individual Borrower is a trust) beneficial owners and affiliates of Individual Borrower are experienced in the ownership and operation of properties similar to the Property, and Individual Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Neither Individual Borrower nor any other Borrower is relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 4.3 No Lender Obligations. (a) Notwithstanding the provisions of Subsections 1.1(h) and (n) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

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(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any Officer's Certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or Policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 4.4 Reliance. Individual Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Section 4.1 of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Section 4.1 of the Loan Agreement.

ARTICLE 5 - FURTHER ASSURANCES

Section 5.1 Recording of Security Instrument, etc. Individual Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Lender in, the Property. Individual Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Security Instrument, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, any deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 5.2 Further Acts, etc. Individual Borrower will, at the cost of Individual Borrower, and without expense to Lender, do, execute, acknowledge and deliver all further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Individual Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing,

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registering or recording this Security Instrument, or for complying with all Legal Requirements. Individual Borrower, on written demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Lender to execute in the name of Individual Borrower or without the signature of Individual Borrower to the extent Lender may lawfully do so, one or more financing statements to evidence more effectively the security interest of Lender in the Property. Such financing statements may describe the collateral in the same manner as described in this Security Instrument or may contain an indication or description of collateral that describes such property in any other manner, including, without limitation, all assets of the Individual Borrower, as the Lender may determine, in its sole discretion, is necessary or prudent to ensure the perfection of the security instrument in the collateral granted to the Lender in connection herewith. Individual Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity upon the occurrence, and during the continuance of an Event of Default, including without limitation such rights and remedies available to Lender pursuant to this Section 5.2. Notwithstanding anything to the contrary contained in the immediately preceding sentence, Lender shall not execute any documents as attorney-in-fact for Individual Borrower unless (a) Individual Borrower shall have failed or refused to execute the same within five (5) Business Days after Lender shall have given notice requesting execution thereof, or (b) an Event of Default has occurred and is continuing and in Lender's good faith determination it would be materially prejudiced by the delay involved in making such request.

Section 5.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Individual Borrower will pay the tax, with interest and penalties thereon, if any (provided that nothing hereunder shall require Individual Borrower to pay any income tax imposed on Lender by reason of its interest in the Property). If Lender is advised in writing by counsel chosen by it that the payment of tax by Individual Borrower and/or Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable, provided, however, no Spread Maintenance Premium or penalty shall be due or payable in connection therewith and, provided further, that Lender shall not exercise such option if, within one hundred eighty (180) days of receipt by Individual Borrower of such written notice, Individual Borrower shall prepay the outstanding principal balance of the Loan in an amount equal to the Release Amount for the Property and otherwise in accordance with the terms and conditions of Section 2.6 of the Loan Agreement (provided that Section 2.6.1(a)(iv) shall not be applicable). No Spread Maintenance Premium or penalty shall be due or payable in connection with the foregoing prepayment, but if such prepayment of the Loan occurs on a day that is not a Payment Date, the Debt shall include all amounts of interest which would have accrued on the amount of the Loan to be paid through and including the last day of the Accrual Period related to the Payment Date next occurring following the date of such prepayment of the Loan, or, if such prepayment of the Loan occurs on a Payment Date, the Debt shall include all amounts of accrued and unpaid interest through and including the last day of the Accrual Period related to such Payment Date.

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(b) Individual Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable provided, however, no Spread Maintenance Premium or penalty shall be due or payable in connection therewith and, provided further, that Lender shall not exercise such option if, within one hundred eighty (180) days of receipt by Individual Borrower of such written notice, Individual Borrower shall prepay the outstanding principal balance of the Loan in an amount equal to the Release Amount for the Property and otherwise in accordance with the terms and conditions of Section 2.6 of the Loan Agreement (provided that Section 2.6.1(a)(iv) shall not be applicable). No Spread Maintenance Premium or penalty shall be due or payable in connection with the foregoing prepayment, but if such prepayment of the Loan occurs on a day that is not a Payment Date, the Debt shall include all amounts of interest which would have accrued on the amount of the Loan to be paid through and including the last day of the Accrual Period related to the Payment Date next occurring following the date of such prepayment of the Loan, or, if such prepayment of the Loan occurs on a Payment Date, the Debt shall include all amounts of accrued and unpaid interest through and including the last day of the Accrual Period related to such Payment Date.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Individual Borrower will pay for the same, with interest and penalties thereon, if any, provided that Individual Borrower will have the right to contest such amounts in accordance with the terms and conditions of the Loan Agreement.

Section 5.4 Severing of Mortgage. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender and at Lender's expense, be severed into two or more notes and two or more security instruments in such denominations as Lender shall determine in its sole discretion, each of which shall cover all or a portion of the Property to be more particularly described therein, provided that such severance does not increase, other than a de minimis amount, the obligations of Individual Borrower under the Loan Documents or diminish, other than a de minimis amount, any of the rights of Individual Borrower under the Loan Documents. To that end, Individual Borrower, upon written request of Lender and at Lender's sole cost and expense, shall execute, acknowledge and deliver to Lender and/or its designee or designees, substitute notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of this Security Instrument, and containing terms, provisions and clauses substantially the same as those contained herein and in the Note, and such other documents and instruments as may be required by Lender. The provisions of this Section 5.4 are subject to the provisions of the Loan Agreement.

Section 5.5 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender

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and cancellation of such Note or other Loan Document, Individual Borrower will issue, in lieu thereof, a replacement Note or other Loan Document to which it was originally a party, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 Lender Reliance. Individual Borrower acknowledges that Lender has examined and relied on the experience of Individual Borrower and its general partners, members, principals and (if Individual Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Individual Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Individual Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that should an Event of Default under the Loan Agreement be continuing, Lender can recover the Debt by a sale of the Property.

Section 6.2 No Sale/Encumbrance. Neither Individual Borrower nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE 7 - RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 Remedies. Upon the occurrence and during the continuance of any Event of Default, Individual Borrower agrees that Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Individual Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Individual Borrower therein and rights of redemption

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thereof, pursuant to power of sale (if applicable under the laws of the State in which the Property is located), or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Individual Borrower and/or any other Borrower, any guarantor or indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;

(h) the license granted to Individual Borrower under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Individual Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Individual Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Individual Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat, (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Individual Borrower with respect to the Property, whether in the name of Individual Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants (subject to any non-disturbance agreements that Lender may have entered into with such tenants, if any), and demand, sue for, collect and receive all Rents; (v) require Individual Borrower to pay monthly in advance to Lender or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Individual Borrower; (vi) require Individual Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Individual Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees of outside counsel) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment, the Personal Property

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or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment, the Personal Property, and (ii) request Individual Borrower at its expense to assemble the Fixtures, the Equipment, the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment, the Personal Property sent to Individual Borrower in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Individual Borrower;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note; or
- (v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including, without limitation, advances made by Lender pursuant to the terms of this Security Instrument;
- (k) pursue such other remedies as Lender may have under applicable law; or
- (l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion.

In the event of a sale under this Section 7.1, by foreclosure, power of sale (if applicable under the laws of the State in which the Property is located) or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 7.2 Application of Proceeds. Subject to the terms of the Loan Agreement, the purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 7.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default or if Individual Borrower or any other Borrower fails to make any payment or to do any act as herein provided or as provided in the Loan Documents, Lender may remedy such Event of Default in such manner and to such extent as Lender may deem necessary to protect the security hereof, but without any obligation to do so and without

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notice to or demand on Individual Borrower or any other Borrower, and without releasing Individual Borrower from any obligation hereunder. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees of outside counsel to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon written demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon written demand by Lender therefor.

Section 7.4 Actions and Proceedings. Subject to the terms of the Loan Agreement, Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Individual Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 7.5 Recovery of Sums Required to Be Paid. Subject to the terms of the Loan Agreement, Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Individual Borrower or any other Borrower existing at the time such earlier action was commenced.

Section 7.6 Examination of Books and Records. Subject to the terms of the Loan Agreement, at reasonable times and upon reasonable prior notice, Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Individual Borrower which reflect its financial condition, at the Property or at any office regularly maintained by Individual Borrower where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable prior notice, but no more often than twice in any calendar year (unless there shall occur an Event of Default, in which event the aforementioned limitation shall no longer apply), Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Individual Borrower pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Individual Borrower (or of any other Borrower) where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

Section 7.7 Other Rights, etc. (a) The failure of Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Individual Borrower shall not be relieved of Individual Borrower's obligations

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hereunder by reason of (i) the failure of Lender to comply with any request of Individual Borrower, any other Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Individual Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, except arising solely as a result of Lender's gross negligence, willful misconduct, fraud or illegal acts, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) During the continuance of an Event of Default, Lender may resort for the payment of the Debt to any other security held by Lender in connection with the Loan in such order and manner as Lender, in its discretion, may elect. During the continuance of an Event of Default, Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 Right to Release Any Portion of the Property. Subject to the terms of the Loan Agreement, Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 7.9 Violation of Laws. Subject to the terms of the Loan Agreement, if the Property is not in material compliance with Legal Requirements, Lender may impose additional requirements upon Individual Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 7.10 Recourse and Choice of Remedies. Notwithstanding any other provision of this Security Instrument or the Loan Agreement, including, without limitation, Section 9.2 of the Loan Agreement, Lender and other Indemnified Parties (as hereinafter

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defined) are entitled to enforce the obligations of Individual Borrower or any other Borrower, any guarantor and indemnitor contained in Sections 8.2 and 8.3 herein without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and upon the occurrence and during the continuation of an Event of Default, in the event Lender commences a foreclosure action against the Property, Lender is entitled to pursue a deficiency judgment with respect to such obligations against Individual Borrower (but not any partner, member, shareholder, officer, director or agent of Individual Borrower), any other Borrower, and any guarantor or indemnitor with respect to the Loan. The provisions of Sections 8.2 and 8.3 herein are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Security Instrument or the other Loan Documents, and Individual Borrower, any other Borrower and any guarantor or indemnitor with respect to the Loan are fully and personally liable for the obligations pursuant to Sections 8.2 and 8.3 herein. The liability of Individual Borrower or any other Borrower with respect to the Loan pursuant to Sections 8.2 and 8.3 herein is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Lender from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Individual Borrower pursuant to Sections 8.2 and 8.3 herein, whether or not action is brought against any other Borrower or other Person or whether or not any other Borrower or other Person is joined in the action or actions. In addition, Lender shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in Article 8 herein.

Section 7.11 Right of Entry. Subject to the rights of Tenants, upon reasonable prior written notice to Individual Borrower, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times during the business day.

Section 7.12 Lender's Remedies against Multiple Parcels. The Debt and the Obligations hereby secured are also secured by other properties, lots and parcels (each an "**Other Property**" and collectively, the "**Other Properties**") covered by other mortgages, deeds of trust and deeds to secure debt (the "**Other Mortgages**") within and/or outside the state where the Property is located. If this Security Instrument or any of the Other Mortgages is foreclosed upon, or if judgment is entered upon any Obligations secured hereby, or if Lender exercises its power of sale (if applicable under the laws of the State in which the Property is located), execution may be made upon or Lender may exercise its remedies (including any power of sale (if applicable under the laws of the State in which the applicable Other Property is located)) against any one or more of the Other Properties and not upon the other Other Properties, or upon all of such Other Properties, either together or separately, and at different times or at the same time, and the exercise of such remedies, execution sales or sales under the power of sale herein granted (if applicable under the laws of the state in which the Property is located) may likewise be conducted separately or concurrently, in each case at Lender's election. No event of enforcement taking place against any Other Property, and no failure to prosecute any such other enforcement, shall in any way stay, preclude or bar enforcement of this Security Instrument, and Lender may pursue any or all of Lender's rights and remedies under this Security Instrument until the Debt and the Obligations are paid and discharged in full.

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ARTICLE 8 - INDEMNIFICATION

Section 8.1 General Indemnification. Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties (hereinafter defined), from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable damages, of whatever kind or nature (including, but not limited, to reasonable attorneys' fees of outside counsel and other costs of defense) (collectively, the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents, each to the extent required or requested by Borrower; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument, the Loan Agreement, the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Individual Borrower, any other Borrower, any guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to, or death of, persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Individual Borrower or any other Borrower to perform or be in compliance with any of the terms of this Security Instrument, the Note, the Loan Agreement or any of the other Loan Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any Borrower or Person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Security Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Security Instrument is made; (i) any failure of the Property to be in compliance with any Legal Requirements; (j) the enforcement by any Indemnified Party of the provisions of this Article 8; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (l) the payment of any commission, charge or brokerage fee to anyone claiming through Individual Borrower or any other Borrower which may be payable in connection with the funding of the Loan; or (m) any misrepresentation made by Individual Borrower or any other Borrower in this Security Instrument or any other Loan Document, in each case except to the extent such Losses were caused solely as a result of the gross negligence, fraud, illegal acts or willful misconduct of any Indemnified Party. The foregoing indemnification shall not cover liability incurred in connection with a Securitization except as provided in the Loan Agreement. Any amounts payable to Lender by reason of the application of this Section 8.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. For purposes of this Article 8,

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the term “**Indemnified Parties**” means Lender and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan, any Person in whose name the encumbrance created by this Security Instrument is or will have been recorded, Persons who may hold or acquire or will have held a full or partial interest in the Loan (including, but not limited to, investors or prospective investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including, but not limited to, any other Person who holds or acquires or will have held a participation or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and any successors by merger, consolidation or acquisition of all or a substantial portion of Lender’s assets and business).

Section 8.2 Mortgage and/or Intangible Tax. Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

Section 8.3 ERISA Indemnification. Individual Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys’ fees of outside counsel and reasonable and documented out-of-pocket costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any non-exempt prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual non-exempt prohibited transaction exemption under ERISA that may be required, in Lender’s reasonable discretion) that Lender may incur, directly or indirectly, as a result of a breach of any of the representations made under Section 4.1.9 of the Loan Agreement or a breach of any negative covenants contained in Section 5.2.9 of the Loan Agreement.

Section 8.4 Duty to Defend; Attorneys’ Fees and Other Fees and Expenses. In connection with any indemnification obligations of Individual Borrower hereunder, upon written request by any Indemnified Party, Individual Borrower shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include Individual Borrower, any other Borrower and any Indemnified Party, and Individual Borrower, any such other Borrower and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Persons or Indemnified Parties that are different from or additional to those available to Individual Borrower or any other Borrower, then such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Individual Borrower’s consent, which consent shall not be unreasonably withheld. Upon written demand, Individual Borrower shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the

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payment of reasonable fees and out of pocket disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

ARTICLE 9 - WAIVERS

Section 9.1 Waiver of Counterclaim. To the extent permitted by applicable law, Individual Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 9.2 Marshalling and Other Matters. To the extent permitted by applicable law, Individual Borrower hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Individual Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Individual Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 9.3 Waiver of Notice. To the extent permitted by applicable law, Individual Borrower shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument or the Loan Documents specifically and expressly provides for the giving of notice by Lender to Individual Borrower and except with respect to matters for which Lender is required by applicable law to give notice, and Individual Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Individual Borrower.

Section 9.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Individual Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 9.5 Survival. The indemnifications made pursuant to Section 8.3 and the waivers made pursuant to Sections 9.1, 9.2, 9.3 and 9.4 herein, shall continue until the Debt is paid in full force and effect and shall survive and shall in no way be impaired by any of the following: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Individual Borrower or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan

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Documents, and any act or omission that might otherwise be construed as a release or discharge of Individual Borrower from the obligations pursuant hereto. Notwithstanding the provisions of this Security Instrument to the contrary, the liabilities and obligations of Individual Borrower shall not apply to the extent such liability and obligations arise after any Indemnified Party or its nominee acquired title to the Property, whether by foreclosure, exercise of power of sale or otherwise.

ARTICLE 10 - EXCULPATION

The provisions of Section 9.2 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 11 - NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 10.6 of the Loan Agreement.

ARTICLE 12 - APPLICABLE LAW

Section 12.1 Governing Law. THE PROVISIONS OF THIS SECURITY INSTRUMENT REGARDING THE CREATION, PERFECTION AND ENFORCEMENT OF THE MORTGAGE, LIENS AND SECURITY INTERESTS HEREIN GRANTED SHALL BE GOVERNED BY AND CONSTRUED UNDER THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED. SUBJECT TO THE FOREGOING, IN ALL OTHER RESPECTS THIS SECURITY INSTRUMENT AND THE RIGHTS AND OBLIGATIONS OF INDIVIDUAL BORROWER AND LENDER HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE SUBSTANTIVE LAWS OF THE STATE OF NEW YORK (INCLUDING, WITHOUT LIMITATION, SECTION 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK).

Section 12.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Individual Borrower, any other Borrower and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the Maximum Legal Rate or amount, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Lender, or if there is no such indebtedness, shall immediately be returned to Borrower.

Section 12.3 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the

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exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE 13 - DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the term "**Individual Borrower**" shall mean "each Individual Borrower" and any subsequent owner or owners of the Property or any part thereof or any interest therein, and shall be deemed to refer to each and every Person comprising an Individual Borrower from time to time, jointly and severally, and to include the successors and assigns of each such Person, the term "**Borrower**" shall be deemed to refer to each and every Person comprising a Borrower from time to time, jointly and severally, and to include the successors and assigns of each such Person, the term "**other Borrower**" shall mean "each other Borrower and any subsequent maker or makers of the Note," jointly and severally, and to include the successors and assigns of each such Person, the word "**Lender**" shall mean "Lender and any subsequent holder of the Note," the word "**Note**" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all reasonable attorneys', paralegal and law clerk fees and disbursements of outside counsel, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.1 No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Individual Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 14.2 Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Individual Borrower and Lender and their respective successors and assigns forever.

Section 14.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

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Section 14.4 Headings, etc. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 14.5 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 14.6 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Individual Borrower's and each other Borrower's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

Section 14.7 Entire Agreement. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Individual Borrower (or Borrower, as applicable) and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Individual Borrower (or Borrower, as applicable) and Lender with respect thereto. Individual Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

Section 14.8 Limitation on Lender's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger, other than as a result of actions of Lender that constitute gross negligence or willful misconduct. Nothing herein contained shall be construed as constituting Lender a "mortgagee in possession."

Section 14.9 WAIVER OF TRIAL BY JURY. INDIVIDUAL BORROWER, AND BY ITS ACCEPTANCE HEREOF, LENDER, EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM, WHETHER IN CONTRACT, TORT OR OTHERWISE, RELATING DIRECTLY OR INDIRECTLY TO THIS SECURITY INSTRUMENT, THE NOTE, OR THE OTHER LOAN DOCUMENTS OR ANY ACTS OR

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OMISSIONS OF LENDER, ITS OFFICERS, EMPLOYEES, DIRECTORS OR AGENTS IN CONNECTION THEREWITH.

ARTICLE 15 - STATE-SPECIFIC PROVISIONS

Section 15.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Article 15 and the terms and conditions of this Security Instrument, the terms and conditions of this Article 15 shall control and be binding.

Section 15.2 Illinois Mortgage Foreclosure Law. In the event that any provision in this Security Instrument shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq. herein called the "Act"), the provisions of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

If any provision of this Security Instrument shall grant to Lender any rights or remedies upon the occurrence and during the continuation of an Event of Default which are more limited than the rights that would otherwise be vested in Lender under the Act in the absence of said provision, Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

Without limiting the generality of the foregoing, all expenses incurred by Lender in connection with the foreclosure of this Security Instrument to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the Debt.

Individual Borrower acknowledges that the transaction of which this Security Instrument is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and upon the occurrence and during the continuation of an Event of Default to the full extent permitted by law, hereby voluntarily and knowingly waives its rights to reinstatement and redemption to the extent allowed under Section 15-1601 and 15-602 of the Act.

Section 15.3 Lender In Possession. In addition to any provision of this Mortgage authorizing the Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender will have the right, in accordance with Sections 15 1701 and 15 1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all powers, immunities and duties as provided for in Sections 151701 and 15 1703 of the Act.

Section 15.4 Statutory Notice – Insurance.

The following notice is given pursuant to 815 ILCS 180/10:

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UNLESS YOU (INDIVIDUAL BORROWER) PROVIDE US (LENDER) WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THE LOAN AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING US WITH EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN.

Section 15.5 Maximum Amount Secured. This Security Instrument shall secure the payment of any amounts advanced from time to time under the Loan Documents, or under other documents stating that such advances are secured hereby. This Mortgage also secures any and all future obligations and Debt arising under or in connection with this Mortgage, which future obligations and the Debt shall have the same priority as if all such future obligations and Debt were made on the date of execution hereof. Nothing in this Section or in any other provision of this Mortgage shall be deemed an obligation on the part of Lender to make any future advances of any sort. At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage shall secure (in addition to any Loan proceeds disbursed from time to time) the payment of any and all expenses and advances due to or incurred by Lender in connection with the Debt to be secured hereby and which are to be reimbursed by Borrower under the terms of this Mortgage; provided, however, the maximum principal indebtedness secured by this Security Instrument shall in no event exceed two hundred percent (200%) of the original principal amount of the Note.

Section 15.6 Use of Loan Proceeds. Individual Borrower covenants and agrees that all of the proceeds of the Loan secured by this Security Instrument will be used solely for business purposes and in furtherance of the regular business affairs of Individual Borrower, and the entire principal obligation secured hereby constitutes: (i) a "business loan," as that term is used in, and for all purposes of, the Illinois Interest Act, 815 ILCS 205/0.01, et seq., including Section 4(1) thereof; and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of Section 205/4(1) thereof.

Section 15.7 Protective Advances. All advances, disbursements and expenditures made by the Lender in accordance with the terms of this Security Instrument and the other Loan Documents, either before and during a foreclosure of this Security Instrument, and before and after judgment of foreclosure therein, and at any time prior to sale of the Property, and, where applicable, after sale of the Property, and during the pendency of any related proceedings, in addition to those otherwise authorized by the Act, shall have the benefit

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of all applicable provisions of the Act, including without limitation advances, disbursements and expenditures for the following purposes (collectively, "**Protective Advances**"):

- (a) all advances by the Lender in accordance with the terms of the Security Instrument or the other Loan Documents to: (i) preserve, maintain, repair, restore or rebuild the improvements upon the Property; (ii) preserve the lien of this Security Instrument or the priority thereof; or (iii) enforce the Security Instrument, as referred to in Section 15-1302(b)(5) of the Act;
- (b) payments by the Lender of (i) when due, installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance, (ii) when due, real estate taxes and assessments, general and special, and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof, (iii) other obligations authorized by the Security Instrument, or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;
- (c) advances by the Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;
- (d) reasonable attorneys' fees and other costs incurred: (i) in connection with the foreclosure of the Security Instrument as referred to in Sections 15-1504(d)(2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of the Security Instrument or arising from the interest of the Lender hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Security Instrument or the Property;
- (e) the Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Section 15-1508(b)(1) of the Act;
- (f) expenses deductible from proceeds of sale as referred to in Sections 15-1512(a) and (b) of the Act; and
- (g) expenses incurred and expenditures made by the Lender for any one or more of the following: (i) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Individual Borrower's interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by the Lender whether or not Lender or a receiver is in possession, if reasonably required in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or the Lender takes possession of the Property imposed by Section 15-1704(c)(1) of the Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or

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instruments creating covenants or restrictions for the benefit of or affecting the Property; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (vii) if any portion of the credit facilities secured hereby is a construction loan, costs incurred by the Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable Loan Documents; and (viii) payments required to be paid by the Individual Borrower or pursuant to any lease or other agreement for occupancy of the Property.

This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to subsection (b) of Section 15-1302 of the Act.

Section 15.8 Application of Proceeds. Notwithstanding anything contained in the Security Instrument to the contrary, the proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with Section 15-1512 of the Act.

Section 15.9 Payment of Debt. Individual Borrower acknowledges that the principal balance of the Loan outstanding as of the date hereof is Eight Hundred Million U.S. Dollars (\$800,000,000.00), having an interest rate as detailed in the Loan Agreement and a Maturity Date of November 1, 2016, subject to the exercise of three (3) one (1) year extension options in accordance with the terms and conditions of the Loan Agreement.

Section 15.10 Sealed Instrument. Individual Borrower intends for this Security Instrument to be executed and delivered by Individual Borrower, and accepted by Lender, as a sealed instrument.


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IN WITNESS WHEREOF, this Security Instrument has been executed by Individual Borrower as of the day and year first above written.

INDIVIDUAL BORROWER:

BRE DDR BR HILLSIDE IL LLC, a Delaware limited liability company

By: 
Name: Eric Staley
Title: Vice President

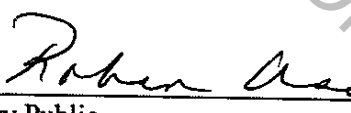
Property of Cook County Clerk's Office

NOTARY ACKNOWLEDGMENT

STATE OF NY)
COUNTY OF NY) ss.:

I, the undersigned, a Notary Public in and for said county in the state aforesaid, do hereby certify that Eric Staley, the Vice President of the Borrower, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as such Vice President as his own free and voluntary act and as the free and voluntary act of said a limited liability company, for the uses and purposes set forth therein.

GIVEN under my hand and notarial seal, this 7th day of October, 2014.


Notary Public

My Commission Expires:

5/21/15

ROBIN ASSA
NOTARY PUBLIC, State of New York
No. 01AS6166570
Qualified in Kings County
Commission Expires May 21, 2015

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Hillside Town Center
Chicago, Illinois
Cook County

PARCEL 1:**TRACT 1:**

LOTS 2, 3, 5 AND 7 IN METRO COMMONS, BEING A SUBDIVISION OF PART OF THE SE 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

TRACT 2:

LOTS 8, 9 AND 10 IN METRO COMMONS RESUBDIVISION, BEING A RESUBDIVISION OF ALL OF LOTS 8 AND 10 AND PART OF LOT 9 IN METRO COMMONS, A SUBDIVISION OF PART OF THE SE 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR INGRESS, EGRESS, PARKING, UTILITIES AND SIGN EASEMENTS GRANTED IN OPERATION AND EASEMENT AGREEMENT DATED DECEMBER 21, 2007, BETWEEN TARGET CORPORATION AND HARRIS, N.A., AS TRUSTEE U/T/A DATED DECEMBER 1, 2001 AND KNOWN AS TRUST NUMBER HTB-1026, FOR HILLSIDE TOWN CENTER, RECORDED JANUARY 2, 2008 AS DOCUMENT NO. 0800213028, COOK COUNTY RECORDER OF DEEDS.

Address: 30 South Mannheim Road, Chicago, Illinois 60162

Tax Parcel No.: 15-17-403-026-0000 (Lot 2)
15-17-404-043-0000 (Lot 3)
15-17-404-045-0000 (Lot 5)
15-17-404-047-0000 (Lot 7)
15-17-405-005-0000 (Lot 8)
15-17-405-006-0000 (Lot 9)
15-17-405-007-0000 (Lot 10)