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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785



Doc#: 1435822045 Fee: \$92.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/24/2014 10:59 AM Pg: 1 of 25

The property identified as: PIN: 21-31-120-021-0000

Address:

Street: 8134-36 S SAGINAW

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60617

Lender: STRAIGHTLIE INVESTMENTS, LLC

Borrower: REALPACE BROXIO, LLC

Loan / Mortgage Amount: \$360,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity.

Certificate number: 0B09655D-A773-486A-87F2-3EAAC93F44E3

Execution date: 12/02/2014

Robin Ltd PSA110001 (2641)

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[SPACE ABOVE THIS LINE FOR RECORDER'S USE]

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Michael L. Helt
 Michael L. Helt, P.C.
 1609 NW Rust Road
 Grain Valley, Missouri 64029

Permanent Index Nos.: 21-31-120-021-0000; 16-02-331-012-0000; 20-26-220-040-0000

MORTGAGE AND SECURITY AGREEMENT

THIS MORTGAGE AND SECURITY AGREEMENT (the "Mortgage"), is made as of the 2 day of December, 2014 by REALPACE BROXIO, LLC, an Illinois limited liability company, 616 Corporate Way, Ste. 2-5129, Valley Cottage, New York 10989 ("Mortgagor") to and for the benefit of STRAIGHTLINE INVESTMENTS, LLC, a Georgia limited liability company, 1100 Peachtree Street, Suite 200, Atlanta, Georgia 30309 ("Mortgagee").

WITNESSETH, That Mortgagor, in consideration of the indebtedness herein mentioned, does hereby grant, bargain, sell, convey, mortgage and warrant up to Mortgagee forever, with power of sale and right of entry and possession, all of Mortgagor's right, title and interest in or to the following property, together with such greater rights as Mortgagor may hereinafter acquire in and to the same (herein referred to as the "Property"):

- A. The land in the County of Cook, State of Illinois described in Exhibit "A" attached hereto and incorporated herein (the "Land");
- B. All easements, appurtenances, tenements and hereditaments belonging to or benefiting the Land, including, but not limited to, all waters, water rights, water courses, all ways, trees, rights, liberties and privileges;

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C. All improvements to the Land, including, but not limited to, all buildings, structures and improvements now existing or hereafter erected on the Land (the "Improvements"); all fixtures and equipment of every description belonging to Mortgagor which are or may be placed or used upon the Land or attached to the Improvements, including, but not limited to, all engines, boilers, elevators and machinery, all heating apparatus, electrical equipment, air conditioning and ventilating equipment, water and gas fixtures, and all furniture and easily removable equipment, all of which, to the extent permitted by applicable law, shall be deemed an accession to the freehold and a part of the realty as between the parties hereto;

D. Mortgagor's interest in all articles of personal property of every kind and nature whatsoever, including, but not limited to, all tangible and intangible property including, without limited the generality of the foregoing, carpeting, draperies, ranges, microwave ovens, refrigerators, dishwashers, easily removable equipment, fixtures and furniture, dehumidification equipment and compactors, now or hereafter located upon the Land or in or on the Improvements and now owned or leased or hereafter acquired or leased by Mortgagor;

E. All building and construction materials, fixtures, equipment and tangible personal property of every kind and nature whatsoever, delivered to and stored on the Property and intended to be incorporated into the Improvements; and

F. All proceeds of any of the foregoing.

Mortgagor agrees not to sell, transfer, assign or remove anything described in paragraphs B, C, D, E and F above now or hereafter located on the Land without prior written consent from Mortgagee unless (i) such action does not constitute a sale or removal of any Improvements or the sale or transfer of waters or water rights; (ii) such action results in the substitution or replacement with similar items of equal value; and (iii) the value of the items removed does not exceed Ten Thousand and 00/100 Dollars (\$10,000.00).

Without limiting the foregoing grants, Mortgagor hereby pledges to Mortgagee, and grants to Mortgagee, a security interest in, all of Mortgagor's present and hereafter acquired right, title and interest in and to the Property and any and all

G. Cash and other funds now or at any time hereafter deposited by or for Mortgagor on account of tax, special assessment, replacement or other reserves required to be maintained pursuant to the Loan Documents (as hereinafter defined) with Mortgagee or a third party, or otherwise deposited with, or in the possession of, Mortgagee pursuant to the Loan Documents;

H. Surveys, soils reports, environmental reports, guaranties, warranties, architect's contracts, construction contracts, drawings and specifications,

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applications, permits, surety bonds and other contracts relating to the acquisition, design, development, construction and operation of the Property;

- I. Accounts, chattel paper, deposit accounts, instruments, equipment, inventory, documents, general intangibles, letter-of-credit rights, investment property and all other personal property of Mortgagor, in each case, to the extent associated with or arising from the ownership, development, operation, use or disposition of any portion of the Property; and

- I. Present and future rights to condemnation awards, insurance proceeds or other proceeds at any time payable to or received by Mortgagor on account of the Property or any of the foregoing personal property.

All personal property hereinabove described is hereinafter referred to as the "Personal Property".

If any of the Property is of a nature that a security interest therein can be perfected under the Uniform Commercial Code, this Mortgage shall constitute a security agreement and financing statement if permitted by applicable law. Mortgagor does hereby irrevocably bargain, sell, grant, transfer and assign and convey unto Mortgagee a security interest in the fixtures, personal property and all other items included within the Property, if any, with respect to which a security interest can be perfected under the Uniform Commercial Code. Mortgagor authorizes Mortgagee to file a financing statement describing such Property and, at Mortgagee's request, agrees to join with Mortgagee in the execution of any financing statement and to execute any other instruments that may be necessary or desirable, in Mortgagee's determination, for the perfection or renewal of such security interest under the Uniform Commercial Code.

TO HAVE AND TO HOLD the same unto Mortgagee for the purpose of securing:

- A. Payment to the order of Mortgagee of the indebtedness evidenced by that certain Promissory Note of even date herewith (and any restatement, extension or renewal thereof and any amendment thereto) executed by Mortgagor to Mortgagee for the principal sum of Three Hundred Sixty Thousand and 00/100 Dollars (\$360,000.00) with final maturity no later than January 1, 2017 and with interest as therein expressed (which Promissory Note, as such instrument may be amended, restated, renewed and extended, is hereinafter referred to as the "Note"), it being recognized the funds may not have been fully advanced as of the date hereof, but may be advanced in the future in accordance with the terms of a written contract;
- B. Payment of all sums that may become due Mortgagee under the provisions of, and the performance of each agreement of Mortgagor contained in, the Loan Documents; and

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- C. Any additional sums with interest thereon which may hereafter be loaned to Mortgagor by Mortgagee or advanced under any of the other Loan Documents, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note (provided, however, the total indebtedness secured hereby shall in no event exceed an amount equal to One Million Eighty Thousand and 00/100 Dollars (\$1,080,000.00))

"Loan Documents" means this Mortgage, the Note, that certain Absolute Assignment of Leases and Rents of even date herewith from Mortgagor to Mortgagee, that certain Construction Funding Agreement of even date herewith between Mortgagor and Mortgagee, that certain Conditional Commitment Letter dated September 13, 2014 between Mortgagor and Mortgagee, those certain Certifications of even date herewith from Mortgagor to Mortgagee, any other supplements and authorizations required by Mortgagee and any other agreement entered into or document executed by Mortgagor and delivered to Mortgagee in connection with the indebtedness evidenced by the Note, except for that certain Environmental Indemnity Agreement ("Environmental Indemnity Agreement") of even date herewith given by Mortgagor, Richard Pace, Antonio Roberto Bernardelli, Realpace Realty, LLC, a Delaware limited liability company, and Broxio Investments, LLC, a Delaware limited liability company, to Mortgagee, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

PROVIDED, HOWEVER, that if and when Mortgagor has paid all of the indebtedness evidenced by the Note and performed and observed all of the agreements, terms, conditions, provisions, and warranties relating to the Loan Documents, this Mortgage and the estate, right, and interest of Mortgagee in and to the Property shall cease and be released at the cost of Mortgagor, but otherwise, shall remain in full force and effect. Mortgagee shall be entitled to charge a reasonable release fee.

TO PROTECT THE SECURITY OF THIS MORTGAGE, MORTGAGOR COVENANTS AND AGREES:

1. **Payment of Debt.** Mortgagor agrees to pay the indebtedness hereby secured (the "Indebtedness") promptly and in full compliance with the terms of the Loan Documents.
2. **Ownership.** Mortgagor represents that it owns the Property and has good and lawful right to convey the same and that the Property is free and clear from any and all encumbrances whatsoever, except as appears in the title evidence accepted by Mortgagee (the "Permitted Exceptions"). Mortgagor does hereby forever warrant and shall forever defend the title and possession thereof against the lawful claims of any and all persons whomsoever, subject to the Permitted Exceptions.
3. **Use of Chlorinated Solvents.** Mortgagor agrees not to allow the use or storage of chlorinated solvents on the Property. Notwithstanding the foregoing, over-the-

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counter products in household quantities are excepted from this prohibition if, and only if, (i) such products are at all times in compliance with applicable law; (ii) said products are kept in pre-packaged containers; and (iii) Mortgagor keeps no more than one (1) month supply of said products on the Property.

4. **Business Restriction Representation and Warranty.** Mortgagor represents and warrants Mortgagor, all persons and entities owning (directly or indirectly) an ownership interest in Mortgagor, all guarantors of all or any portion of the Indebtedness, and all persons and entities executing any separate indemnity agreement in favor of Mortgagee in connection with the Indebtedness: (i) are not, and shall not become, a person or entity with whom Mortgagee is restricted from doing business under regulations of the Office of Foreign Assets Control ("OFAC") of the Department of the Treasury (including, but not limited to, those named on OFAC's Specially Designated Nationals and Blocked Persons list) or under any statute, executive order (including, but not limited to, the September 24, 2001 Executive Order Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism), or other governmental action; (ii) are not, and shall not become, a person or entity with whom Mortgagee is restricted from doing business under the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 or the regulations or orders thereunder; and (iii) are not knowingly engaged in, and shall not knowingly engage in, any dealings or transaction or be otherwise associated with such person or entities described in (i) or (ii) above.

5. **Maintenance of Property and Compliance with Laws.** Mortgagor agrees to keep the Improvements now or hereafter erected on the Land in good condition and repair; not to commit or suffer any waste; to comply with all laws, rules and regulations affecting the Property; and to permit Mortgagee to enter at all reasonable times for the purpose of inspection and of conducting, in a reasonable and proper manner, such tests as Mortgagee determines to be necessary in order to monitor Mortgagor's compliance with applicable laws and regulations regarding hazardous materials affecting the Property.

6. **Insurance.** Mortgagor agrees to keep the Property insured for the protection of Mortgagee as follows:

(i) Until completion of the Improvements, the following types of insurance in amounts and form with companies, all satisfactory to Mortgagee: (a) all-risk builder's risk insurance for the estimated replacement cost of the Improvements and soft cost coverage on the standard builder's risk completed value form (non-reporting full coverage form including waiver of occupancy endorsement if applicable) with a deductible of not greater than One Thousand Dollars (\$1,000.00); (b) Flood insurance, if the Property is located in a flood plain (as that term is used in the National Flood Insurance Program), in an amount not less than 100% of the estimated replacement cost; (c) commercial general liability insurance coverage; and (d) other insurance as required by Mortgagee from time to time provided such insurance is required by other institutional lenders for similar properties.

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(ii) As of the date the Property shall or can be legally occupied pursuant to a temporary certificate of occupancy, Mortgagor shall provide Mortgagee with evidence of, and shall maintain insurance in such manner, in such amounts and in such companies as Mortgagee may from time to time reasonably approve, and to keep the policies therefor, properly endorsed, on deposit with Mortgagee, or at Mortgagee's option, to keep certificates of insurance (Acord 28 or 27 for all property insurance and Acord 25 for all liability insurance) evidencing all insurance coverages required hereunder on deposit with Mortgagee, which certificates shall provide at least thirty (30) days' notice of cancellation to Mortgagee and shall list Mortgagee as the certificate holder or as a similar additional interest with Mortgagee's correct mailing address; if Mortgagor requests Mortgagee to accept a different form of certificate of insurance, Mortgagee shall not unreasonably withhold its consent, provided, a copy of a standard mortgagee endorsement in favor of Mortgagee stating that the insurer shall provide at least thirty (30) days' notice of cancellation to Mortgagee accompanies such certificate. Mortgagor shall furnish Mortgagee with renewals of all applicable insurance evidence no later than the actual insurance expiration date.

If the Property shall be damaged or destroyed, in whole or in part, by fire or other casualty, Mortgagor shall give prompt written notice thereof to Mortgagee. Following the occurrence of a casualty, Mortgagor shall promptly proceed to repair damage which constitutes a life/safety concern, and following Mortgagee's receipt of insurance loss proceeds, Mortgagor shall restore, repair, replace or rebuild the Improvements to be of at least equal value and of substantially the same character as prior to such damage or destruction, all to be effected in accordance with applicable law. All insurance loss proceeds from all property insurance policies, whether or not required by Mortgagee (less expenses of collection) shall, at Mortgagee's option, be applied on the Indebtedness, whether due or not, or to the restoration of the Property, or be released to Mortgagor, but such application or release shall not cure or waive any default under any of the Loan Documents. If Mortgagee elects to apply the insurance loss proceeds on the Indebtedness, no prepayment privilege fee, if any, shall be due thereon.

Pursuant to the terms of the Collateral Protection Act (815 ILCS 180/1, *et seq.*), Mortgagor is hereby notified that:

"UNLESS MORTGAGOR PROVIDES MORTGAGEE WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, MORTGAGEE MAY PURCHASE INSURANCE AT MORTGAGOR'S EXPENSE TO PROTECT MORTGAGEE'S INTERESTS IN THE PROPERTY, WHICH INSURANCE MAY, BUT NEED NOT, PROTECT THE INTERESTS OF MORTGAGOR IN THE PROPERTY. THE COVERAGE PURCHASED BY MORTGAGEE MAY NOT PAY ANY CLAIM MADE BY MORTGAGOR OR ANY CLAIM MADE AGAINST MORTGAGOR IN CONNECTION WITH THE PROPERTY. MORTGAGOR MAY LATER CANCEL ANY INSURANCE PURCHASED BY MORTGAGEE, BUT ONLY AFTER PROVIDING MORTGAGEE WITH EVIDENCE THAT MORTGAGOR HAS OBTAINED THE INSURANCE REQUIRED HEREUNDER. IF MORTGAGEE PURCHASES INSURANCE, MORTGAGOR WILL BE RESPONSIBLE FOR THE

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COSTS OF SUCH INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES IMPOSED IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE INDEBTEDNESS SECURED HEREBY. THE COSTS OF SUCH INSURANCE MAY BE GREATER THAN THE COST OF INSURANCE MORTGAGOR MAY BE ABLE TO OBTAIN FOR ITSELF.”

7. **Condemnation.** Mortgagor hereby assigns to Mortgagee (i) any award and any other proceeds resulting from damage to, or the taking of, all or any portion of the Property and (ii) the proceeds from any sale or transfer in lieu thereof (collectively, “Condemnation Proceeds”) in connection with condemnation proceedings or the exercise of any power of eminent domain or the threat thereof; and Mortgagor grants Mortgagee the right, at its option, to apply such Condemnation Proceeds (less expenses of collection) on the Indebtedness (including any prepayment fee), whether due or not, or to the restoration of the Property or to release all or any portion thereof to Mortgagor, but such application or release shall not cure or waive any default under any of the Loan Documents.

8. **Taxes and Special Assessments.** Mortgagor agrees to pay before delinquency all taxes and special assessments of any kind that have been or may be levied or assessed against the Property, this Mortgage, the Note or the Indebtedness, or upon the interest of Mortgagee in the Property, this Mortgage, the Note or the Indebtedness, and to procure and deliver to Mortgagee, within ten (10) days after Mortgagee shall have given a written request therefor to Mortgagor, the official receipt of the proper officer showing timely payment of all such taxes and assessments; provided, however, that Mortgagor shall not be required to pay any such taxes or special assessments if the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and funds sufficient to Mortgagee have been deposited in an escrow satisfactory to Mortgagee.

9. **Personal Property.**

With respect to the Personal Property, Mortgagor hereby represents, warrants and covenants as follows:

(i) Except for the security interest granted hereby, Mortgagor is, and as to portions of the Personal Property to be acquired after the date hereof will be, the sole owner of the Personal Property, free from any lien, security interest, encumbrance or adverse claim thereon of any kind whatsoever. Mortgagor shall notify Mortgagee of, and shall indemnify and defend Mortgagee and the Personal Property against, all claims and demands of all persons at any time claiming the Personal Property or any part thereof or any interest therein.

(ii) Except as otherwise provided above, Mortgagor shall not lease, sell, convey or in any manner transfer the Personal Property without the prior consent of Mortgagee.

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(iii) Mortgagor is a limited liability company organized under the laws of the State of Illinois and maintains its principal office at the address set forth in this Mortgage. Until the Indebtedness is paid in full, Mortgagor (a) shall not change its legal name without providing Mortgagee with thirty (30) days' prior written notice; b) shall not change its state of organization; and (c) shall preserve its existence and shall not, in one transaction or a series of transactions, merge into or consolidate with any other entity.

(iv) At the request of Mortgagee, Mortgagor shall join Mortgagee in executing one or more financing statements and continuations and amendments thereof pursuant to the Uniform Commercial Code of the jurisdiction in which the Property is located in form satisfactory to Mortgagee, and Mortgagor shall pay the cost of filing the same in all public offices wherever filing is deemed by Mortgagee to be necessary or desirable. Mortgagor shall also, at Mortgagor's expense, take any and all other action requested by Mortgagee to perfect Mortgagee's security interest under the Uniform Commercial Code with respect to the Personal Property, including, without limitation, exercising Mortgagor's best efforts to obtain any consents, agreements or acknowledgments required of third parties to perfect Mortgagee's security interest in Personal Property consisting of deposit accounts, letter-of-credit rights, investment property and electronic chattel paper.

10. **Other Liens.** Mortgagor agrees to keep the Property and any Personal Property free from all other liens either prior or subsequent to the lien created by this Mortgage. The (i) creation of any other lien on any portion of the Property or on any Personal Property, whether or not prior to the lien created hereby, (ii) assignment or pledge by Mortgagor of its revocable license to collect, use and enjoy rents and profits from the Property, or (iii) granting or permitting of a security interest in or other encumbrance on the direct or indirect ownership interests in Mortgagor, shall constitute a default under the terms of this Mortgage.

11. **Indemnification, Duty to Defend and Costs, Fees and Expenses.** In addition to any other indemnities contained in the Loan Documents, Mortgagor shall indemnify, defend and hold Mortgagee harmless from and against any and all losses, liabilities, claims, demands, damages, costs and expenses (including, but not limited to, costs of title evidence and endorsements to Mortgagee's title insurance policy with respect to the Property and reasonable attorneys' fees and other costs of defense) which may be imposed upon, incurred by or asserted against Mortgagee, whether or not any legal proceeding is commenced with regard thereto, in connection with: (i) the enforcement of any of Mortgagee's rights or powers under the Loan Documents; (ii) the interpretation of any of the terms and conditions of the Loan Documents; (iii) the protection of Mortgagee's interest in the Property; or (iv) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or on any sidewalk, curb, parking area, space or street located adjacent thereto. If any claim or demand is made or asserted against Mortgagee by reason of any event as to which Mortgagor is obligated to indemnify or defend Mortgagee, then, upon demand by Mortgagee, Mortgagor, at Mortgagor's sole cost and expense, shall defend such claim, action or proceeding in Mortgagee's name, if necessary, by such attorneys as Mortgagee shall approve. Notwithstanding the foregoing,

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Mortgagee may, in Mortgagee's sole discretion, engage its own attorneys to defend it or assist in its defense and Mortgagor shall pay the reasonable fees and disbursements of such attorneys.

12. **Failure of Mortgagor to Act.** If Mortgagor fails to make any payment or do any act as herein provided, Mortgagee may, without obligation to do so, without notice to or demand upon Mortgagor and without releasing Mortgagor from any obligation hereof: (i) make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof, Mortgagee being authorized to enter upon the Property for such purpose; (ii) appear in and defend any action or proceeding purporting to affect the security hereof, or the rights or powers of Mortgagee; (iii) pay, purchase, contest or compromise any encumbrance, charge or lien which in the judgment of Mortgagee appears to be prior or superior hereto; and (iv) in exercising any such powers, pay necessary expenses, employ counsel and pay its reasonable fees. Sums so expended and all losses, liabilities, claims, damages, costs and expenses required to be reimbursed by Mortgagor to Mortgagee hereunder shall be payable by Mortgagor immediately upon demand with interest from the date of expenditure or demand, as the case may be, at the Default Rate (as defined in the Note). All sums so expended by Mortgagee and the interest thereon shall be included in the Indebtedness and secured by the lien of this Mortgage.

13. **Event of Default.** Any default by Mortgagor in making any required payment of the Indebtedness or any default in any provision, covenant, agreement, warranty or certification contained in any of the Loan Documents shall, except as provided in Paragraph 14 herein, constitute an "Event of Default".

14. **Notice of Default.** A default in any payment required in the Note or any other Loan Document, whether or not payable to Mortgagee (a "Monetary Default") shall not constitute an Event of Default unless Mortgagee shall have given a written notice of such Monetary Default to Mortgagor and Mortgagor shall not have cured such Monetary Default by payment of all amounts in default (including payment of interest at the Default Rate, as defined in the Note, from the date of default to the date of cure on amounts owed to Mortgagee) within five (5) Business Days after the date on which Mortgagee shall have given such notice to Mortgagor. For purposes hereof, "Business Day" shall mean any day other than a Saturday, Sunday or federal banking holiday.

Any other default under the Note or under any other Loan Document (a "Non-Monetary Default") shall not constitute an Event of Default unless Mortgagee shall have given a written notice of such Non-Monetary Default to Mortgagor and Mortgagor shall not have cured such Non-Monetary Default within thirty (30) days after the date on which Mortgagee shall have given such notice of default to Mortgagor (or if the Non-Monetary Default is not curable within such 30-day period, Mortgagor shall not have diligently undertaken and continued to pursue the curing of such Non-Monetary Default and deposited an amount sufficient to cure such Non-Monetary Default in an escrow account satisfactory to Mortgagee).

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In no event shall the notice and cure period provisions recited above constitute a grace period for the purpose of commencing interest at the Default Rate (as defined in the Note).

15. **Appointment of Receiver.** Upon commencement of any proceeding to enforce any right under this Mortgage, including foreclosure thereof, Mortgagee (without limitation or restriction by any present or future law, without regard to the solvency or insolvency at that time of any party liable for the payment of the Indebtedness, without regard to the then value of the Property, whether or not there exists a threat of imminent harm, waste or loss to the Property and whether the same shall then be occupied by the owner of the equity of redemption as a homestead) shall have the absolute right to the appointment of a receiver of the Property and of the revenues, rents, profits and other income therefrom, and said receiver shall have (in addition to such other powers as the court making such appointment may confer) full power to collect all such income and, after paying all necessary expenses of such receivership and of the operation, maintenance and repair of said Property, to apply the balance to the payment of any of the Indebtedness then due.

16. **Foreclosure** Upon the occurrence of an Event of Default, the entire unpaid Indebtedness shall, at the option of Mortgagee, become immediately due and payable for all purposes without any notice or demand, except as required by law, (ALL OTHER NOTICE OF THE EXERCISE OF SUCH OPTION, OR OF THE INTENT TO EXERCISE SUCH OPTION, BEING HEREBY EXPRESSLY WAIVED), and Mortgagee may, in addition to exercising any rights it may have with respect to the Personal Property under the Uniform Commercial Code of the jurisdiction in which the Property is located, institute proceedings in any court of competent jurisdiction to foreclose this Mortgage as a mortgage, or to enforce any of the covenants hereof, or Mortgagee may, either personally or by agent or attorney in fact, enter upon and take possession of the Property and may manage, rent or lease the Property or any portion thereof upon such terms as Mortgagee may deem expedient, and collect, receive and receipt for all rentals and other income therefrom and apply the sums so received as hereinafter provided in case of sale. Mortgagee is hereby further authorized and empowered, as agent or attorney in fact, either after or without such entry, to sell and dispose of the Property en masse or in separate parcels (as Mortgagee may think best), and all the right, title and interest of Mortgagor therein, by advertisement or in any manner provided by the laws of the jurisdiction in which the Property is located, (MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO A HEARING PRIOR TO SUCH SALE), and to issue, execute and deliver a deed of conveyance, all as then may be provided by law; and Mortgagee shall, out of the proceeds or avails of such sale, after first paying and retaining all fees, charges, costs of advertising the Property and making said sale, and attorneys' fees provided, apply such proceeds to the Indebtedness, including all sums advanced or expended by Mortgagee or the legal holder of the Indebtedness, with interest from the date of advance or expenditure at the Default Rate (as defined in the Note), rendering the excess, if any, as provided by law; such sale or sales and said deed or deeds so made shall be a perpetual bar, both in law and equity, against Mortgagor, the heirs, successors and assigns of Mortgagor, and all other persons claiming the Property aforesaid, or any part thereof, by, from, through or under Mortgagor.

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The legal holder of the Indebtedness may purchase the Property or any part thereof, and it shall not be obligatory upon any purchaser at any such sale to see to the application of the purchase money.

It is the intention of Mortgagor and Mortgagee the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101, *et seq.*, and with respect to such Act, Mortgagor agrees and covenants that:

- (i) In the event any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act;
- (ii) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law;
- (iii) Mortgagor and Mortgagee shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existed prior to such repeal, as though the same were incorporated herein by express reference;
- (iv) Wherever provision is made in this Mortgage for insurance policies to bear mortgagee clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control the use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of Mortgagee shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale;
- (v) In addition to any provision in this Mortgage authorizing Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall 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 Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties as provided for in Sections 15-1701 and 15-1703 of the Act;

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- (vi) Mortgagor acknowledges the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act;
- (vii) Mortgagor hereby voluntarily and knowingly waives its statutory rights to reinstatement and redemption pursuant to 735 ILCS Section 5/15-1601(b);
- (viii) All advances, disbursements and expenditures made or incurred by Mortgagee before and during a foreclosure, and before or after judgment of foreclosure, and at any time prior to sale and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage, any other Loan Document or by the Act (collectively, "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:
 - (a) all advances by Mortgagee in accordance with the terms of the Mortgage or any other Loan Document to: (1) preserve, maintain, repair, restore or rebuild the Improvements; (2) to preserve the lien of the Mortgage or the priority thereof; or (3) enforce the Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;
 - (b) payments by Mortgagee of (1) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (2) 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; (3) other obligations authorized by this Mortgage, or (4) 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 5/15-1505 of the Act;
 - (c) advances by Mortgagee 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 (1) in connection with the foreclosure of this Mortgage as referred to in Sections 5/15-1504(d)(2) and 5/15-1510 of the Act; (2) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of this Mortgage or arising from the interest of Mortgagee hereunder; or (3) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Mortgage or the Property;

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- (e) Mortgagee's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 5/15-1508(b)(1) of the Act;
 - (f) expenses deductible from proceeds of sale as referred to in Section 5/15-1512(a) and (b) of the Act; and
 - (g) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (1) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed on the unit owner thereof; (2) if Mortgagor'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; (3) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee 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 mortgagee takes possession of the Property imposed by Section 5/15-1704(c)(1) of the Act; (4) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (5) payments deemed by Mortgagee 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 instruments creating covenants or restrictions for the benefit or of affecting the Property; (6) 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; (7) if the Indebtedness secured hereby was for a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the Loan Documents; (8) payments required to be paid by Mortgagor or Mortgagee pursuant to any lease or other agreement for occupancy of the Property; and (9) if the Mortgage is insured, payment of FHA or private mortgage insurance required to keep such insurance in force.
- (ix) All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of advance until paid at the Default Rate (as defined in the Note).

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- (x) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 5/15-1302 of the Act.

17. **Liens Discharged by Proceeds.** Mortgagee shall be subrogated to the lien of any and all prior encumbrances, liens or charges paid and discharged from the proceeds of the Note, and even though said liens have been released of record, the repayment of the Note shall be secured by such liens on the portion of the Property affected thereby to the extent of such payments, respectively.

18. **Business Purpose.** Mortgagor represents and warrants to Mortgagee the Indebtedness secured hereby is solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the Indebtedness constitutes (i) a “business loan” as that term is defined in, and for all purposes of 815 ILCS 205/4(1)(c), and (ii) a “loan secured by a mortgage on real estate” within the purview and operation of 815 ILCS 205/4(1)(l).

19. **Prohibition on Transfer.** The present ownership and management of the Property is a material consideration to Mortgagee in making the loan secured by this Mortgage, and Mortgagor shall not (i) convey title to all or part of the Property; (ii) enter into any contract to convey (land contract/installment sales contract/contract for deed) title to all or any part of the Property which gives a purchaser possession of, or income from, the Property prior to a transfer of title to all or any part of the Property (“Contract to Convey”); or (iii) cause or permit a Change in the Proportionate Ownership (as hereinafter defined) of Mortgagor. Any such conveyance, entering into a Contract to Convey or Change in Proportionate Ownership of Mortgagor shall constitute a default under the terms of this Mortgage.

“Change in Proportionate Ownership” means in the case of a limited liability company, a change in, or the existence of a lien on, the direct or indirect ownership of the limited liability company interests of Mortgagor; any transfer of direct or indirect ownership interest of Mortgagor; or any change in the members of Mortgagor which has not been pre-approved by Mortgagee.

20. **Financial Statements.** Mortgagor shall furnish to Mortgagee:

- (i) an unaudited income statement and balance sheet for Mortgagor as of the last day of Mortgagor’s most recently closed fiscal year within forty-five (45) days following the close of such fiscal year;
- (ii) an unaudited income statement and balance sheet for Mortgagor as of the last day of Mortgagor’s most recently closed fiscal quarter within thirty (30) days following the close of such quarter;
- (iii) a copy of Mortgagor’s federal income tax return filed with the Internal Revenue Service within ten (10) days following the filing of such return;

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(iv) a copy of any extension filed with the Internal Revenue Service for Mortgagor's federal income tax return within ten (10) days following the filing of such extension;

(v) Mortgagor shall further cause to be provided to Mortgagee a financial statement for any guarantor of the Indebtedness within thirty (30) days following request by Mortgagee; and

(vi) such other reasonable financial and management information in the possession of, or accessible to, Mortgagor which Mortgagee determines to be useful in Mortgagee's monitoring the value and condition of the Property, Mortgagor or any guarantor.

All unaudited financial statements for Mortgagor shall contain a certification by an officer, principal or member of Mortgagor stating that, to the best of such officer's, principal's or member's knowledge and belief after appropriate due diligence and inquiry, the financial statements have been prepared in accordance with generally accepted accounting principles and they are true and correct.

21. **Covenants with Respect to Indebtedness, Operations and Fundamental Changes of Mortgagor.** Mortgagor hereby represents, warrants and covenants, as of the date hereof and until such time as the Indebtedness is paid in full, Mortgagor:

(i) shall not (a) liquidate or dissolve (or suffer any liquidation or dissolution), terminate, or otherwise dispose of, directly, indirectly or by operation of law, all or substantially all of its assets; (b) reorganize or change its legal structure without Mortgagee's prior written consent; (c) change its name, address or the name under which Mortgagor conducts its business without promptly notifying Mortgagee; (d) enter into or consummate any merger, consolidation, sale, transfer, assignment, liquidation or dissolution involving any or all of the assets of Mortgagor or any member of Mortgagor; or (e) enter into or consummate any transaction or acquisition, merger or consolidation or otherwise acquire by purchase or otherwise all or any portion of the business or assets of, or any stock or other evidence of beneficial ownership of, any person or entity;

(ii) has not, except for any secured or unsecured debt which has been paid in full on or before the date hereof, incurred any secured or unsecured debt except for customary and reasonable short term trade payables obtained and repaid in the ordinary course of Mortgagor's business and shall not incur any secured or unsecured debt except for customary and reasonable short term trade payables, which in no event shall exceed Five Thousand and 00/100 Dollars (\$5,000.00) at any one time, obtained and repaid in the ordinary course of Mortgagor's business;

(iii) shall not, nor shall any member, partner (whether limited or general) or shareholder thereof, as applicable, or any other party, amend, modify or otherwise change its partnership certificate, partnership agreement, articles of incorporation, by-laws,

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operating agreement, articles of organization, or other formation agreement or document, as applicable, or governing agreement or document, in any material term or manner, or in a manner which adversely affects Mortgagor's existence as a single purpose entity;

(iv) shall allocate by written agreement fairly and reasonably any rent, overhead and expenses for shared office space and shall use its own separate stationary, invoices and checks;

(v) shall maintain correct and complete financial statements, accounts, books and records and other entity documents separate from those of any Affiliate (as hereinafter defined) of same or any other person or entity;

(vi) shall maintain its own separate bank accounts, payroll and correct, complete and separate books of account;

(vii) shall file or cause to be filed its own separate tax returns except as may be required by applicable law;

(viii) shall hold itself out to the public (including any of its Affiliates' creditors) under Mortgagor's own name and as a separate and distinct entity and not as a department, division or otherwise of any Affiliate of same;

(ix) shall observe all customary formalities regarding the existence of Mortgagor, including holding meetings and maintaining current and accurate minute books separate from those of any Affiliate of same;

(x) shall hold title to its assets in its own name and act solely in its own name and through its own duly authorized officers and agents and no Affiliate of same shall be appointed or act as agent of Mortgagor, other than, if applicable, a property manager with respect to the Property;

(xi) shall make investments in the name of Mortgagor directly by Mortgagor or on its behalf by brokers engaged and paid by Mortgagor or its agents;

(xii) except as expressly required by Mortgagee in connection with the loan secured by this Mortgage and in writing, shall not guarantee or otherwise agree to be liable for (whether conditionally or unconditionally), pledge or assume or hold itself out or permit itself to be held out as having guaranteed, pledged or assumed any liabilities or obligations of any partner (whether limited or general), member, shareholder or any Affiliate of Mortgagor, as applicable, or any other party, nor shall it make any loan, except as expressly permitted by the Loan Documents;

(xiii) is, and will use commercially reasonable efforts to remain solvent;

(xiv) shall separately identify, maintain and segregate its assets and such assets shall at all times be held by or on behalf of Mortgagor and if held on behalf of Mortgagor

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by another entity, shall at all times be kept identifiable (in accordance with customary usages) as assets owned by Mortgagor and this restriction requires, among other things, that (a) Mortgagor's funds shall be deposited or invested in Mortgagor's name, (ii) Mortgagor's funds shall not be commingled with the funds of any Affiliate of same or any other person or entity, (c) Mortgagor shall maintain all accounts in its own name and with its own tax identification number, separate from those of any Affiliate of same or any other person or entity and (d) Mortgagor's funds shall be used only for the business of Mortgagor;

(xv) shall maintain its assets in such a manner that is not costly or difficult to segregate, ascertain or identify its assets from those of any Affiliate of same or any other person or entity;

(xvi) shall pay or cause to be paid its own liabilities and expenses of every kind, including, but not limited to, salaries of its employees, only out of its own separate funds and assets;

(xvii) is, and shall at all times use commercially reasonable efforts to remain, adequately capitalized to engage in the transaction contemplated at its formation;

(xviii) shall not do any act which would make it impossible to carry on the ordinary business of Mortgagor;

(xix) shall reflect Mortgagor's ownership interest in all data and records (including computer records) used by Mortgagor or any Affiliate of same in the collection and administration of any loan;

(xx) shall not invest any of Mortgagor's funds in securities issued by, nor shall Mortgagor acquire the indebtedness or obligation of, any Affiliate of same;

(xxi) shall maintain an arm's length relationship with each of its Affiliates and may enter into contracts or transact business with Affiliates only on commercially reasonable terms that are no less favorable to Mortgagor than is obtainable in the market from a person or entity that is not an Affiliate;

(xxii) shall correct any misunderstanding known by Mortgagor regarding its name or separate identity; and

(xxiii) shall not, without the prior written vote of one hundred percent (100%) of its partners, members or shareholders, as applicable, institute proceedings to be adjudicated bankrupt or insolvent; or consent to the institution of bankruptcy or insolvency proceedings against it; or file a petition seeking, or consent to, reorganization or relief under any applicable federal or state law relating to bankruptcy; or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator (or similar official) of Mortgagor or a substantial part of Mortgagor's property; or make any assignment for the benefit of creditors; or admit in writing its inability to pay its debts generally as they become due or

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declare or effectuate a moratorium on payments of its obligations; or take any action in furtherance of any such action.

For purposes hereof, "Affiliate" shall mean any person or entity which directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a specified person or entity. For purposes of this paragraph, the terms "control", "controlled", or "controlling" with respect to a specified person or entity shall include, without limitation, (i) the ownership, control or power to vote ten percent (10%) or more of (x) the outstanding shares of any class of voting securities or (y) beneficial interests, of any such person or entity, as the case may be, directly or indirectly, or acting through one or more persons or entities, (ii) the control in any manner over such person or entity or the election of one or more director or trustee (or persons exercising similar functions) of such person or entity, or (iii) the power to exercise, directly or indirectly, control over the management or policies of such person or entity.

22. **Property Management.** Any management company for the Property shall be satisfactory to Mortgagee. Any change in the management company without the prior written consent of Mortgagee, which shall not be unreasonably withheld, shall constitute a default under this Mortgage.

23. **Compliance With Water Regulations.** Mortgagor agrees to abide by all the statutes of the jurisdiction in which the Property is located and the rules and regulations of any and all federal, state and local authority having jurisdiction over the use and distribution of water or water resources, and shall not transfer, sell, assign or relinquish the water rights now held or hereafter acquired covering the Property without the written consent of Mortgagee.

24. **Deposits by Mortgagor.** To assure the timely payment of real estate taxes and special assessments (including personal property taxes, if appropriate), upon the occurrence of an Event of Default, Mortgagee shall thence forth have the option to require Mortgagor to deposit funds with Mortgagee, in monthly or other periodic installments in amounts estimated by Mortgagee from time to time sufficient to pay real estate taxes and special assessments as they become due. If at any time the funds so held by Mortgagee shall be insufficient to pay any of said expenses, Mortgagor shall, upon receipt of notice thereof, immediately deposit such additional funds as may be necessary to remove the deficiency. All funds so deposited shall be irrevocably appropriated to Mortgagee to be applied to the payment of such real estate taxes and special assessments and, at the option of Mortgagee after an Event of Default, the Indebtedness.

25. **Modification of Terms.** Without affecting the liability of Mortgagor or any other person (except any person expressly released in writing) for payment of the Indebtedness or the performance of any obligation contained herein and without affecting the rights of Mortgagee with respect to any security not expressly released in writing, Mortgagee may, at any time and from time to time, either before or after the maturity of the Note, without notice or consent: (i) release any person liable for payment of all or any part of the Indebtedness or for performance of any obligation; (ii) make any agreement

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extending the time or otherwise altering the terms of payment of all or any part of the Indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof; (iii) exercise or refrain from exercising or waive any right Mortgagee may have; (iv) accept additional security of any kind; (v) release or otherwise deal with any property, real or personal, securing the Indebtedness, including all or any part of the Property.

26. **Exercise of Option.** Whenever, by the terms of this Mortgage, of the Note or any of the other Loan Documents, Mortgagee is given any option, such option may be exercised when the right accrues or at any time thereafter, and no acceptance by Mortgagee of payment of Indebtedness in default shall constitute a waiver of any default then existing and continuing or thereafter occurring.

27. **Nature and Succession of Agreement.** Each of the provisions, covenants and agreements contained herein shall inure to the benefit of, and be binding on, the heirs, executors, administrators, successors, grantees, and assigns of the parties hereto, respectively, and the term "Mortgagee" shall include the owner and holder of the Note.

28. **Legal Enforceability.** No provision of this Mortgage, the Note or any other Loan Document shall require the payment of interest or other obligation in excess of the maximum permitted by law. If any applicable state law or applicable United States federal law (to the extent that it permits Mortgagee to contract for, charge, take, reserve or receive a greater amount of interest than under state law) is ever judicially interpreted so as to render usurious any amount called for under this Mortgage, the Note or under any other Loan Document, or contracted for, charged, taken, reserved or received with respect to the Indebtedness secured by this Mortgage and evidenced by the Note or any other Loan Document, or if Mortgagee's exercise of the option to accelerate the maturity of the Note, or if any prepayment by Mortgagor results in Mortgagor having paid any interest in excess of that permitted by applicable law, then all excess amounts theretofore collected by Mortgagee shall be credited on the principal balance of the Note (or, if the Note has been or would thereby be paid in full, refunded to Mortgagor), and the provisions of this Mortgage, the Note and the other Loan Documents shall immediately be deemed reformed and the amounts thereafter collectible reduced, without the necessity of the execution of any new document, so as to comply with applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder and thereunder. All sums paid or agreed to be paid to Mortgagee for the use, forbearance and detention of the Indebtedness secured by this Mortgage and evidenced by the Note and the Loan Documents shall, to the extent permitted by applicable law, be amortized, prorated, allocated and spread throughout the full term of such Indebtedness until payment in full so that the rate or amount of interest on account of such Indebtedness does not exceed the maximum rate permitted under applicable law from time to time in effect and applicable to the Indebtedness secured by this Mortgage and evidenced by the Note for so long as such Indebtedness remains outstanding. Notwithstanding anything to the contrary contained in this Mortgage, the Note or the Loan Documents, it is not the intention of Mortgagee to accelerate the maturity of any interest that has not accrued at the time of such acceleration or to collect unearned interest at the time of such acceleration.

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29. **Limitation of Liability.** Notwithstanding any provision contained herein to the contrary, the personal liability of Mortgagor shall be limited as prescribed in the Note.

30. **Further Assurances.** Mortgagor will keep the lien of this Mortgage valid and unimpaired. Mortgagor will promptly (and in no event later than thirty (30) days after written notice from Mortgagee is received) cure any defects in the creation, execution and delivery of this Mortgage and the other Loan Documents. Mortgagor at its expense will promptly execute and deliver to Mortgagee upon request all such other and further documents, agreements and instruments in compliance with or accomplishment of the covenants and agreements of Mortgagor in this Mortgage and the other Loan Documents or to further evidence and more fully describe the Property or more fully state the security obligations set out herein, or to perfect, protect or preserve any liens created pursuant to this Mortgage, or to make any recordings, to file any notices, or obtain any consents as may be necessary or appropriate in connection with the transactions contemplated by this Mortgage.

31. **Miscellaneous.** Time is of the essence in each of the Loan Documents. The remedies of Mortgagee as provided herein or in any other Loan Document or at law or in equity shall be cumulative and concurrent, and may be pursued singly, successively, or together at the sole discretion of Mortgagee, and may be exercised as often as occasion therefor shall occur; and neither the failure to exercise any such right or remedy nor any acceptance by Mortgagee of payment of Indebtedness in default shall in any event be construed as a waiver or release of any right or remedy. Neither this Mortgage nor any other Loan Document may be modified or terminated orally but only by agreement or discharge in writing and signed by Mortgagor and Mortgagee. If any of the provisions of any Loan Document or the application thereof to any persons or circumstances shall to any extent be invalid or unenforceable, the remainder of such Loan Document and each of the other Loan Documents and the application of such provision or provisions to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and every provision of each of the Loan Documents shall be valid and enforceable to the fullest extent permitted by law.

32. **Publicity.** Mortgagor agrees Mortgagee, at its expense, may publicize the financing of the Property in trade and similar publications.

33. **Notice.** Any notice required or provided for herein shall be in writing and shall be delivered personally or sent by certified mail or reputable courier service with charges prepaid, to the address for Mortgagor and Mortgagee set forth on the first page of this Mortgage or at such other address as either Mortgagor or Mortgagee shall designate by written notice as provided in this paragraph. Notice shall be deemed given on the date received. Any notice which is rejected, the acceptance of which is refused or which is incapable of being delivered during normal business hours at the address provided herein or such other address designated pursuant hereto shall be deemed received as of the date of the attempted delivery.

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34. **Waiver of Jury Trial.** Mortgagor hereby waives any right to trial by jury with respect to any action or proceeding (i) brought by Mortgagor, Mortgagee or any other person relating to (a) the obligations secured hereby and/or any understandings or prior dealings between the parties hereto or (b) the Loan Documents or the Environmental Indemnity Agreement, and (ii) to which Mortgagee is a party.

35. **Captions.** The captions contained herein are for convenience and reference only and in no way define, limit or describe the scope or intent of, or in any way affect this Mortgage.

36. **Governing Law.** This Mortgage, the interpretation hereof and the rights, obligations, duties and liabilities hereunder shall be governed and controlled by the laws of the State of Illinois.

[Remainder of this Page Left Intentionally Blank.]

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IN WITNESS WHEREOF, this Mortgage has been executed by the Mortgagor as of the day and year first above written.

MORTGAGOR:

REALPACE BROXIO, LLC,
an Illinois limited liability company

By: Realpace Realty, LLC, a Delaware limited
liability company, Member

By: 

Name: Richard Pace

Title: Member

By: Broxio Investments, LLC, a Delaware
limited liability company, Member

By: 

Name: Antonio Roberto Bernardelli

Title: Member

[Acknowledgments located on following page.]

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STATE OF IL]
COUNTY OF Cook] ss.

I, Undersigned, a Notary Public in and for said County in said State, hereby certify that Richard Pace, whose name as the sole Member of Realpace Realty, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is personally known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such sole Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

GIVEN under my hand and official seal, this 2nd day of December, 2014.

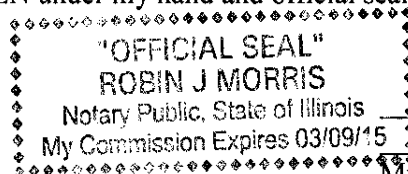


Robin J Morris, Notary Public
My Commission Expires:

STATE OF IL]
COUNTY OF Cook] ss.

I, Undersigned, a Notary Public in and for said County in said State, hereby certify that Antonio Roberto Bernardelli, whose name as the sole Member of Broxio Investments, LLC, a Delaware limited liability company, is signed to the foregoing instrument, and who is personally known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such sole Member and with full authority, executed the same voluntarily for and as the act of said limited liability company.

GIVEN under my hand and official seal, this 2nd day of December, 2014.



Robin J Morris, Notary Public
My Commission Expires:

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EXHIBIT "A" **DESCRIPTION OF PROPERTY**

TRACT I:

Lot 6 and the North $\frac{1}{2}$ of Lot 7 in Block 4 in Colburn Park, being a subdivision of the part of the North $\frac{1}{2}$ of the South East $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 31, Township 38 North, Range 15 East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Tax # 21-31-120-021-0000

Property Address: 8134-36 Saginaw, Chicago, Illinois 60617

TRACT II:

Lots 25 and 26 in J.W. Farlin's Subdivision of the West $\frac{1}{2}$ of the Northwest $\frac{1}{4}$ of the South East $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of Section 26, Township 38 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Tax # 16-02-331-012-0000

Property Address: 7354-56 S Dante, Chicago, Illinois 60619

TRACT III:

Lot 35 in Block 7 in T.J. Diven's Subdivision of the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ in Section 2, Township 39 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

Permanent Tax # 20-26-220-040-0000

Property Address: 827 N Lawndale, Chicago, Illinois 60651