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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8765



Doc#: 1516745000 Fee: \$80.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 06/16/2015 08:02 AM Pg: 1 of 22

The property identified as: **PIN: 14-33-127-012-1006**

Address:

Street: 2026 N Howe unit # 3

Street line 2:

City: Chicago

State: IL

ZIP Code: 60614

Lender: Regions Bank

Borrower: PILYTIX, LLC

Loan / Mortgage Amount: \$1,040,700.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77170 et seq. because the application was taken by an exempt entity.

S yes
P 22
S ~
M N
SCL 95
E 20
INT EA

Certificate number: A7B76856-1C0B-4C8F-8298-DBEFE5B7520A

Execution date: 02/06/2015

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THIS DOCUMENT WAS
PREPARED BY, AND AFTER
RECORDING, MAIL TO:

Jason C. Tunquist, Esq.
Lyons Law Group, LLC
5333 Main Street
Downers Grove, IL 60515

P.I.N.: 14-33-127-012-1006 ✓

(FOR RECORDER'S USE ONLY)

MORTGAGE

THIS MORTGAGE (this "**Mortgage**") is made as of this 6th day of February, 2015, by Katherine K. Ivers ("**Mortgagor**"), and granted to Regions Bank ("**Mortgagee**").

RECITALS

WHEREAS, Pilytix, LLC, a Texas limited liability company (the "**Borrower**") is indebted to Mortgagee in the principal amount of One Million Forty Thousand Seven Hundred and No/100 Dollars (\$1,040,700.00) together with interest thereon from and after the date hereof as evidenced by, at the rate and upon the additional terms provided in, that certain Promissory Note of even date herewith executed by the Borrower and made payable to the order of and delivered to Mortgagee (the "**Note**," which is incorporated herein by reference), and as further described in that certain Loan Agreement of even date herewith between and among Borrower, Mortgagor, James J. Dries, Sr. ("**Dries Sr.**"), James J. Dries, Jr. ("**Dries Jr.**") and Mortgagee (the "**Loan Agreement**") executed in connection with the Note and incorporated herein by reference; and

WHEREAS, Mortgagor intends and agrees that, in addition to all obligations and indebtedness of Borrower, Mortgagor, Dries Sr. and/or Dries Jr. to Mortgagee arising from time to time under the Note, the Loan Agreement, this Mortgage and any other documents or instruments (including but not limited to any and all security agreements, assignments, mortgages and guaranties) given to evidence or secure, or in connection with the extension of such Indebtedness (collectively, the "**Loan Documents**"), which shall be secured hereby to the same extent as though the Loan Documents were fully incorporated herein, this Mortgage secures future advances, disbursements or amounts owed under the Loan Agreement or the Note, including amendments and restatements of the Note, made by Mortgagee to Borrower from time to time, whether obligatory or made at the option of the Mortgagee or otherwise (all of Borrower's indebtedness to Mortgagee under the Note and all such future advances shall be referred to herein collectively as the "**Indebtedness**"), whether or not the total amount of the Indebtedness may exceed or be less than the face amount of the Note; and

WHEREAS, Mortgagor is a principal owner of Borrower and will personally benefit from the loan extended to Borrower under the Loan Agreement; and

WHEREAS, Mortgagor intends and agrees that the occurrence of any event of default under any of the Loan Documents shall constitute an event of default under this Mortgage, entitling Mortgagee to all

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of the rights, powers, elections, options and remedies conferred upon the Mortgagee by the terms of the Loan Documents, this Mortgage, all other security now held by Mortgagee and by law, as in the case of any other default hereunder; and

WHEREAS, as a condition of extending the credit evidenced by the Note, Mortgagee has required that Mortgagor mortgage the "**Premises**" (as defined herein) to the Mortgagee, and Mortgagor has executed, acknowledged and delivered this Mortgage to secure the Indebtedness, including any extensions, renewals, modifications or replacements thereof, without limit as to number or frequency.

NOW, THEREFORE, in consideration for the sums advanced by Mortgagee to Borrower under the Note and to secure the payment of the Indebtedness, the payment and performance of the covenants and agreements contained in this Mortgage, the Note and all other Loan Documents executed pursuant thereto or hereto, and all of which are incorporated herein by reference as if fully written herein, the Mortgagor does hereby grant, transfer, bargain, set over, pledge, convey and mortgage unto Mortgagee, its successors and assigns forever, all of Mortgagor's estate, right, title and interest in and to the certain parcel or parcels of real estate commonly known as 2026 North Howe, Apartment 3, Chicago, Illinois 60614 and legally described on Exhibit A attached hereto and by this reference incorporated herein (the "**Real Estate**");

Together with: (i) all right, title and interest of Mortgagor, including any after-acquired title or reversion, in and to the beds of the ways, streets, avenues, and alleys adjoining the Real Estate; (ii) all and singular tenements, hereditaments, easements, appurtenances, passages, liberties and privileges thereof or in any way now or hereafter appertaining, including other claim at law or in equity as well as any after-acquired title, franchise or license, and the reversion and reversions and remainder and remainders thereof; (iii) all rents, income, issues, claims, proceeds and profits accruing and to accrue from the Premises herein defined; and (iv) all buildings and improvements of every kind and description now or hereafter erected or placed on the Real Estate and all materials intended for construction, reconstruction, alteration and repairs of such improvements now or hereafter erected thereon, all of which materials shall be deemed to be included within the Premises immediately upon the delivery thereof to the Premises, and all fixtures, equipment, materials and other types of personal property (other than that belonging to tenants) used in the ownership and operation of the improvements situated thereon, including without limitation any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, fans, fittings, floor coverings, furnaces, furniture, furnishings, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate in any manner with parking and other related facilities, in possession of Mortgagor and now or hereafter located in, on, or upon, or installed in or affixed to the Real Estate legally described herein, or any improvements or structures used in connection with all accessories and parts now attached to or hereafter, at any time, be placed in or added thereto (collectively, the "**Improvements**"), and also any and all replacements and proceeds of any such equipment, materials and personal property, together with the proceeds of any of the foregoing (all of the foregoing, including the Real Estate, referred to collectively as the "**Premises**"); it being mutually agreed, intended, and declared, that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the Real Estate and for the purpose of this Mortgage to be Real Estate, and covered by this Mortgage; notwithstanding the agreement hereinabove expressed that certain articles of property form

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a part of the Real Estate, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Illinois Uniform Commercial Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee as a secured party and Mortgagor as debtor, all in accordance with said Uniform Commercial Code as more particularly set forth in Article VIII hereof.

TO HAVE AND TO HOLD, the same unto the Mortgagee and its successors and assigns forever, for the purposes and uses herein set forth.

PROVIDED, HOWEVER, that if the Borrower, Mortgagor, Dries Sr. and/or Dries Jr. shall pay the principal and all interest as provided by the Note, and shall pay all other Indebtedness provided for, or secured hereby, and shall well and truly keep and perform all of the covenants herein or in the Loan Documents contained, whether or not the amount of Indebtedness, principal, interest, costs, fees and/or expenses exceeds or is less than the face amount of the Note, then this Mortgage shall be released.

To induce the Mortgagee to make the loans evidenced by the Note, Mortgagor further agrees, represents and covenants to the Mortgagee as follows:

ARTICLE I

PAYMENT OF PRINCIPAL AND INTEREST

1.01 Promise to Pay. Borrower and/or Mortgagor shall pay promptly when due the Indebtedness evidenced by, and at the times and in the manner provided herein and in the Note, the Loan Agreement and the other Loan Documents.

ARTICLE II

TAXES AND OTHER CHARGES

2.01 [Intentionally Omitted]

2.02 Contest of Validity. Mortgagor may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes or assessments, provided that the following conditions have been satisfied:

(a) That such contest shall have the effect of preventing the collection of the tax or assessment so contested and the sale or forfeiture of said Premises or any part thereof or any interest therein, to satisfy the same;

(b) That Mortgagor has notified Mortgagee in writing of the intention of Mortgagor to contest the same, before any tax or assessment has been increased by any interest, penalties, or costs; and

(c) That Mortgagor shall have deposited with Mortgagee at such place as Mortgagee may from time to time in writing appoint, a sum of money, or other security reasonably acceptable to Mortgagee which shall be sufficient in the reasonable judgment of the Mortgagee to pay in full such contested tax and assessment and all penalties and interest that might become due thereon, and shall at all times upon notice from Mortgagee increase such amount to cover additional

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penalties and interest whenever, in the reasonable judgment of the Mortgagee, such increase is advisable.

2.03 Payment by Mortgagee. In case the Mortgagor, after demand is made upon it by Mortgagee, shall fail to prosecute such contest with reasonable diligence or shall fail to maintain sufficient funds on deposit as hereinabove provided, the Mortgagee may, in its sole and exclusive discretion and at its sole option, upon notice to Mortgagor, apply the monies and/or liquidate the securities deposited with Mortgagor, in payment of, or on account of, such taxes and assessments, or any portion thereof then unpaid, including the payment of all penalties and interest thereon. The notice required herein to be given is and shall only be a requirement of notice of the occurrence of the application and/or liquidation; and such application may be simultaneous with the giving of said notice.

2.04 Deficiency. If the amount of money and/or security so deposited shall be insufficient as aforesaid for the payment in full of such taxes and assessments, together with all penalties and interest thereon, the Mortgagor shall forthwith upon demand, either:

(a) Deposit with the Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full, or,

(b) In case the Mortgagor shall have applied funds on deposit on account of such taxes, restore said deposit to an amount reasonably satisfactory to Mortgagee.

2.05 Return of Excess. Provided Mortgagor is not then in default hereunder, Mortgagee shall, upon the final disposition of such contest and upon Mortgagor's delivery to Mortgagee of an official bill for such taxes, apply the money so deposited in full payment of such taxes and assessments or that part thereof then unpaid, together with all penalties and interest due thereon and return on demand the balance of said deposit, if any, to Mortgagor.

ARTICLE III

INSURANCE

3.01 Insurance Coverage. Mortgagor will insure the Premises against such perils and hazards, and in such amounts and with such limits, as Mortgagee may from time to time require, and in any event will continuously maintain the following described policies of insurance (the "**Insurance Policies**"):

(a) Casualty insurance against loss and damage by all risks of physical loss or damage, including fire, windstorm and other risks covered by the so-called extended coverage endorsement in an amount no less than \$1,000,000.00 if there is no co-insurance clause; or, if co-insurance is purchased, such insurance shall be sufficient to meet the minimum co-insurance requirement based upon the replacement value of the Improvements, fixtures and equipment from time to time on the Premises, which must be the greater of (i) \$1,000,000.00 or (ii) the replacement cost amount specified in the most recent appraisal received by Mortgagee;

(b) Comprehensive general liability against death, bodily injury and property damage in an amount not less than \$1,000,000.00, and worker's compensation insurance insuring Mortgagor; and

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(c) The types and amounts of coverage as are customarily maintained by owners or operators of like properties.

3.02 Insurance Policies. Mortgagor shall pay promptly, when due, any and all premiums on the Insurance Policies; provided, however, Mortgagee may, but is not required to, make such payments on behalf of Mortgagor in the event Mortgagor fails to pay promptly when due, or in the event Mortgagee determines that Mortgagor may or will not be able to pay promptly, when due, such premiums. All monies paid for such insurance hereunder by Mortgagee shall be deemed, construed and become additional Indebtedness secured hereby, and shall become immediately due and payable by Borrower and/or Mortgagor to Mortgagee upon payment or disbursement by Mortgagee without notice and with interest thereon at the Default Rate (as that term is defined in the Note and the Loan Agreement). All Insurance Policies shall be in form, and with companies and amounts reasonably satisfactory to Mortgagee and shall: (i) include, when available, non-contributing Mortgagee endorsements in favor of and with loss payable to Mortgagee; (ii) include standard waiver of subrogation endorsements; (iii) provide that the coverage shall not be terminated or materially modified without thirty (30) days' advance written notice to Mortgagee, and, (iv) provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee.

Mortgagor will deliver all Insurance Policies, premium prepaid, to Mortgagee, and will deliver renewal or replacement policies at least thirty (30) days prior to the date of expiration of any policy. The requirements of the preceding sentence shall apply to any separate policies of insurance taken out by Mortgagor concurrent in form or contributing in the event of loss with the Insurance Policies. Insurance Policies maintained by tenants under the Leases (as defined herein) may, if in conformity with the requirements of this Mortgage and if approved by Mortgagee, be presented to Mortgagee in satisfaction of Mortgagor's obligation to provide the insurance coverages provided by those Insurance Policies.

3.03 Proceeds of Insurance. Mortgagor will give Mortgagee prompt notice of any loss or damage to the Premises, and:

(a) In case of loss or damage of \$100,000.00 or more covered by any of the Insurance Policies, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) may at its option either (i) jointly settle and adjust any claim under such Insurance Policies with Mortgagor, or (ii) allow Mortgagor to settle and adjust such claim without the consent of Mortgagee; provided that in either case Mortgagee shall, and is hereby authorized to, collect and receipt for such insurance proceeds. The reasonable expenses incurred by Mortgagee in the adjustment and collection of insurance proceeds shall be so much additional Indebtedness, and shall be reimbursed to Mortgagee upon demand or may be deducted by Mortgagee from said insurance proceeds prior to any other application thereof. If, during the joint settlement and adjustment of any claim under the Insurance Policies, Mortgagor and Mortgagee are unable to agree on the amount of the settlement to be paid in connection with the loss or damage covered by the Insurance Policies, the decision of Mortgagee shall control. In case of loss or damage of less than \$100,000.00, Mortgagor is hereby authorized to settle and adjust any claim under such Insurance Policies without the consent of Mortgagee. Each insurance company which has issued an Insurance Policy is hereby authorized and directed to make payment for all losses covered by any Insurance Policy to Mortgagor and Mortgagee jointly.

(b) Subject to the terms hereof, Mortgagee shall apply the proceeds of the Insurance Policies to reimburse Mortgagor for, or pay, the costs of restoring or repairing the Improvements

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after the casualty. At the election of Mortgagor, Mortgagee shall apply the proceeds of the Insurance Policies to reduce the Indebtedness. Any use of proceeds of Insurance Policies applied to the reimbursement of Mortgagor's costs for restoring and repairing the Premises shall be disbursed by Mortgagee subject to the conditions and in accordance with the provisions of Section 3.04 hereof.

(c) Any repair or restoration of the Improvements shall be of at least equal value, and of substantially the same character as prior to such casualty, all to be effected in accordance with plans, specifications and procedures approved in advance by Mortgagee.

3.04 Disbursement of Insurance Proceeds. Insurance proceeds held by Mortgagee for restoring or repairing the Premises shall be disbursed monthly upon Mortgagee being furnished with (i) evidence satisfactory to it of the estimated cost of the restoration or repair, (ii) funds sufficient in addition to the proceeds of insurance to fully pay for the restoration or repair, and (iii) such architect's certificates, waivers of lien, contractor's sworn statements, title insurance endorsements, plats of survey and such other evidences of cost, payment and performance as Mortgagee may require and approve. No payment made prior to the final completion of the restoration or repair shall exceed ninety percent (90%) of the value of the work performed from time to time, as such value shall be determined by Mortgagee in its sole reasonable judgment; funds other than insurance proceeds shall be disbursed prior to disbursement of such proceeds, except as may otherwise be provided in the Loan Agreement; and at all times the undisbursed balance of such proceeds remaining in the hands of Mortgagee, together with funds deposited or irrevocably committed, to the reasonable satisfaction of Mortgagee, by or on behalf of Mortgagor to pay the cost of such repair or restoration, shall be sufficient in the reasonable judgment of Mortgagee to pay the entire unpaid cost of the restoration or repair free of all liens or claims for lien. Any surplus remaining out of insurance proceeds held by Mortgagee after payment of such costs of restoration or repair shall be paid to Mortgagor, provided Mortgagor is not in default hereunder. Any proceeds of insurance or other funds of Mortgagor held by Mortgagee pursuant to the terms of this Paragraph 3.04 shall be held in an interest bearing account for the benefit of Mortgagor.

ARTICLE IV CREATION OF LIENS

4.01 No Additional Liens. Mortgagor shall not create, suffer, or permit to be created or filed against the Premises, any mortgage lien or other lien whether superior or inferior to the lien of this Mortgage without prior written consent of Mortgagee, excepting only the lien of real estate taxes and assessments not yet due.

4.02 Contest of Validity. Notwithstanding the foregoing prohibition against encumbrances, Mortgagor may in good faith and with reasonable diligence contest the validity or amount of any mechanics' lien and defer payment and discharge thereof during the pendency of such contest, provided that: (i) such contest shall prevent the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such mechanics' lien; (ii) within ten (10) days after Mortgagor has been notified of the filing of such mechanics' lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such mechanics' lien; and (iii) Mortgagor shall have either obtained a title insurance endorsement over such mechanic's lien insuring Mortgagee against loss by reason of the mechanics' lien or Mortgagor shall have deposited with Mortgagee at such place as Mortgagee from time to time in writing appoint, and in the absence of such appointment, then at the place of payment designated in the Note, a sum of money (the "Deposits") which shall be sufficient in the judgment of Mortgagee to pay in

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full such mechanics' lien and all interest which might become due thereon. Mortgagor shall increase the Deposits whenever, in the judgment of Mortgagee, such increase is advisable. The Deposits are to be held without any allowance of interest. Mortgagee may, at its option, pay the Deposits, or any part thereof, to the mechanics' lien claimant if Mortgagor fails to maintain sufficient Deposits or fails to act in good faith or with reasonable diligence in contesting the mechanics' lien claims. If the mechanics' lien contest is resolved in favor of the claimant and Mortgagor is not in default hereunder, Mortgagee shall pay the Deposits, or any part thereof, to the mechanics' lien claimant upon Mortgagee's receipt of evidence satisfactory to Mortgagee of the amount to be paid. Mortgagee shall pay any remaining Deposits to Mortgagor, provided Mortgagor is not in default hereunder.

4.03 No Waiver of Rights. Any waiver by Mortgagee of the provisions of this Article shall not be deemed to be a waiver of the right of Mortgagee to insist upon strict compliance with the provisions of this Article in the future.

ARTICLE V

PRESERVATION AND RESTORATION OF PREMISES AND COMPLIANCE WITH GOVERNMENTAL REGULATIONS

5.01 Preservation. Mortgagor shall not permit any building or other Improvement on the Premises to be materially altered, removed or demolished, nor shall any fixture or appliance on, in or about said buildings or Improvements be severed, removed, sold or mortgaged, without the prior written consent of Mortgagee, and in the event of demolition or destruction in whole or in part of any of the fixtures, chattels or articles of personal property covered hereby or by any separate security agreement given in conjunction herewith, the same shall be replaced promptly by similar fixtures, and in the same condition to those replaced, free from any security interest in or encumbrances thereon or reservation of title thereto except in favor of Mortgagee, or permitted by the Mortgagee, subject to conditions hereinafter set forth.

5.02 Maintenance. Mortgagor further agrees to: (i) permit, commit or suffer no waste, impairment or deterioration of the Premises or any part or improvement thereof; (ii) keep and maintain the Premises and every part thereof in good repair and condition, subject to ordinary wear and tear, to effect such repairs as the Mortgagee may reasonably require, and, from time to time, to make all needful and proper replacements and additions thereto so that said buildings, fixtures, machinery, and appurtenances will, at all times, be in good condition, fit and proper for the respective purpose for which they were originally erected or installed; (iii) comply with all statutes, orders, requirements or decrees relating to said Premises and as provided in any notice given by any federal, state or municipal authority; and (iv) observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions which are applicable to the Premises or which have been granted to or contracted for by Mortgagor in connection with any existing or presently contemplated use of the said Premises.

ARTICLE VI

HAZARDOUS MATERIAL REGULATIONS COMPLIANCE

6.01 [Intentionally Omitted]

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6.02 Delivery of Premises. The Mortgagor agrees that in the event this Mortgage is foreclosed or the Mortgagor tenders a deed in lieu of foreclosure, the Mortgagor shall deliver the Premises to the Mortgagee free of any and all hazardous materials which are then required to be removed (whether over time or immediately) pursuant to applicable federal, state and local laws, ordinances, rules or regulations affecting the Premises.

6.03 Additional Obligation. The provisions of this paragraph shall be in addition to any and all other obligations and liabilities the Mortgagor may have to the Mortgagee under the Loan Agreement and Loan Documents, or by law, and shall survive: (i) the repayment of all Indebtedness; (ii) the satisfaction of all of the other obligations of the Mortgagor in this Mortgage and under any Loan Document; (iii) the discharge of this Mortgage; and (iv) the foreclosure of this Mortgage or acceptance of a deed in lieu of foreclosure. Notwithstanding anything to the contrary contained in this Mortgage, it is the intention of the Mortgagor and the Mortgagee that the indemnity provisions of this paragraph shall only apply to an action commenced against any owner of the Premises in which any interest of the Mortgagee is threatened or any claim is made against the Mortgagee for the payment of money.

ARTICLE VII

EMINENT DOMAIN

7.01 Assignment. So long as any portion of the Indebtedness remains unpaid, any and all awards heretofore or hereafter made or to be made to the present and all subsequent owners of the Premises in excess of a single or aggregate of \$50,000.00, by any governmental or other lawful authority for taking, by condemnation or eminent domain, of the whole or any part of the Premises or any improvement located thereon, or any easement therein or appurtenant thereto (including any award from the United States government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for payment thereof), are hereby assigned by Mortgagor to Mortgagee, to the extent of the unpaid Indebtedness evidenced by the Note, which award Mortgagee is hereby authorized to give appropriate receipts and acquittance therefor, and, subject to terms hereinafter set forth, Mortgagor shall apply the proceeds of such award as a credit upon any portion of the Indebtedness secured hereby or, at its option, permit the same to be used to repair and restore the Improvements in the same manner as hereinafter set forth with regard to insurance proceeds received subsequent to a fire or other casualty to the Premises.

7.02 Notice. Mortgagor shall give Mortgagee immediate written notice of the actual or threatened commencement of any such proceedings under condemnation or eminent domain, affecting all or any part of the said Premises or any easement therein or appurtenance thereof, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings.

7.03 Further Assignments. Mortgagor shall make, execute, and deliver to Mortgagee, at any time or times upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards in accordance with and subject to the provisions hereof, and other compensation heretofore and hereafter to be made to Mortgagor for any taking, either permanent or temporary, under any such proceeding.

7.04 Defense. Notwithstanding anything aforesaid to the contrary, Mortgagor shall have the sole authority to conduct the defense of any condemnation or eminent domain proceeding and (so long as the amount of any condemnation or eminent domain award exceeds the unpaid principal balance

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evidenced by the Note) the sole authority to agree to and/or accept the amounts, terms, and conditions of any and all condemnation or eminent domain settlements or awards.

7.05 Absence of Complete Economic Unit. If any portion of or interest in the Premises is taken by condemnation or eminent domain, and the remaining portion of the Premises is not, in the sole judgment of Mortgagee, a complete economic unit having equivalent value to the Premises as it existed prior to the taking, then at the option of Mortgagee, the entire Indebtedness secured hereby and evidenced by the Note shall immediately become due and payable.

7.06 Conditions Precedent to Disbursement. In the event that Mortgagee elects to make available to the Mortgagor the proceeds of any award for eminent domain to restore any Improvements on the Premises, no disbursement thereof shall occur unless Mortgagor is in compliance with each of the following conditions: (i) no Event of Default shall then exist under any of the terms, covenants, and conditions of the Note, the Loan Agreement, this Mortgage, or any other documents or instruments evidencing or securing the Note; (ii) Mortgagee shall first be given satisfactory proof that such Improvements have been fully restored or that by the expenditure of such award and any sums deposited with Mortgagee pursuant to the terms hereof will be fully restored, free and clear of all mechanic's and materialmen's liens, except for liens for which adequate provision is made as required above within six (6) months from the date of such taking; and (iii) in the event such award shall be insufficient to restore the Improvements, Mortgagor shall deposit promptly with Mortgagee funds which, together with the award proceeds, would be sufficient to restore the Improvements.

7.07 Excess Proceeds. The excess of the proceeds of the award above the amount necessary to complete such restoration shall be applied as a credit upon any portion, as selected by Mortgagee, of the Indebtedness secured hereby, but the proceeds of the award released by Mortgagee for restoration shall, in no event, be deemed a payment of the Indebtedness secured hereby.

ARTICLE VIII

SECURITY AGREEMENT

8.01 Mortgage Deemed Security Agreement. Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Illinois Uniform Commercial Code (hereinafter referred to as the "Code") with respect to (i) all sums at any time on deposit for the benefit of Mortgagee or held by the Mortgagee (whether deposited by or on behalf of the Mortgagor or anyone else) pursuant to any of the provisions of the Mortgage or the Loan Agreement and (ii) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of the Code), (which property is hereafter referred to as "**Personal Property**") and all replacements of, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as the "**Collateral**," and that a security interest in and to the Collateral is hereby granted to the Mortgagee, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to the Mortgagee, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions, covenants and warranties shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto: (i) Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly

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permitted by the Loan Agreement; (ii) the collateral is to be used by Mortgagor solely for business purposes; (iii) the Collateral will be kept at the Premises, and, except for Obsolete Collateral, will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code); (iv) the only persons having any interest in the Premises are Mortgagor, Mortgagee and holders of interest, if any, expressly permitted by the Loan Agreement; and no financing statement (other than financing statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted by the Loan Agreement) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and (v) Mortgagor will at its own cost and expense, upon demand, furnish to Mortgagee such further information and will execute and deliver to Mortgagee such financing statements and other documents in form satisfactory to Mortgagee and will do all such acts as Mortgagee may at any time or from time to time request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted by the Loan Agreement; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable.

8.02 Remedies Upon Default. Upon Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including without limitation the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as Mortgagor can give authority therefor, with or without judicial process, enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of; or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor hereinafter set forth at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at any private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorney's fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

8.03 Code Applies. The terms and provisions contained in this Article shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

8.04 Intended as Financing Statements. This Mortgage is intended to be a financing statement within the purview of the Code with respect to the Collateral and the goods described herein,

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which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are herein. This Mortgage is to be filed for record with the Recorder of Deeds of the County or Counties where the Premises are located.

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

ARTICLE IX

RESTRICTIONS ON TRANSFER

9.01 Restrictions. Until the provisions of this Mortgage, the Loan Agreement, the Note and the other Loan Documents have been fully satisfied as solely determined by Mortgagee, Mortgagor shall not, without the prior written consent of Mortgagee, convey, sell, assign, transfer, lien, pledge, mortgage, grant a security interest in or other encumber or alienate, or attempt to do any of the foregoing, any rights, properties or interests of Mortgagor, including the Premises, without Mortgagee’s prior written consent to the same.

9.02 Non-Application. Provided, however, that the foregoing provisions of this Article shall not apply: (i) to liens of Mortgagee securing the Indebtedness; (ii) to the lien of current taxes and assessments not in default; or (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficiary interests, or shares of stock, membership, partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner’s heirs, legatees, devisees, executors, administrators, estate or personal representatives.

ARTICLE X

DEFAULT AND FORECLOSURE

10.01 Events of Default and Remedies. The Events of Default as set forth in the Loan Agreement are incorporated herein by reference. Without limiting the Events of Default set forth in the Loan Agreement, Mortgagor specifically agrees that any sale, conveyance, transfer or assignment of any right, title or interest in or to any portion of the Premises (or beneficial interest in and to any trust holding title thereto) during the term of the Note without the prior written approval of Lender or other holder of the Note shall be an Event of Default.

10.02 Acceleration of Maturity Date upon Default and other Rank Remedies. Upon the occurrence of an Event of Default, the entire Indebtedness secured hereby, including without limitation principal and accrued interest, shall, at the option of the Mortgagee and with reasonable notice to Mortgagor, become immediately due and payable with interest accruing thereafter on the unpaid principal balance of the Note at the Default Rate, as defined in the Note and the Loan Agreement and, thereupon, or at any time after the occurrence of any such Event of Default, the Mortgagee may:

- (a) Proceed to foreclose this Mortgage by judicial proceedings according to the statutes in such case provided, in which event the Mortgagor agrees not to contest a motion to modify the stay or similar action taken by the Mortgagee in its sole discretion in order to

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effectuate the purpose of this Section 10.02(a), and any failure to exercise said option shall not constitute a waiver of the right to exercise the same at any other time;

(b) Advance cash, insofar as the Mortgagee deems practicable, to protect its security for payment to such persons or entities and for such purposes as Mortgagee deems necessary or desirable under the circumstances, either out of the proceeds of the loans, or, if the proceeds of the loans are wholly disbursed or the remaining undisbursed proceeds are insufficient for such purposes, out of additional funds, and without limitation of the foregoing: (i) pay any lien; (ii) contest the validity thereof; (iii) pay attorneys', expert's and any other person's reasonable fees, and their expenses in connection with the cure of any Event of Default; (iv) make or advance, in the place and stead of the Mortgagor, any payment relating to taxes, assessments, water rates, sewer rentals and other governmental or municipal charges, fines, impositions or liens asserted against the Premises and may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of the bill or statement or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof, and the Mortgagee if further authorized to make or advance in the place and stead of the Mortgagor any payment relating to any apparent or threatened adverse title, lien, statement of lien, encumbrance, claim or charge; or payment otherwise relating to any other purpose herein and hereby authorized but not enumerated in this Paragraph, and may do so whenever, in its reasonable judgment and discretion, such advance or advances shall seem necessary or desirable to protect the full security intended to be created by this instrument, and, provided further, that in connection with any such advance, Mortgagee, in its operation, may, and is hereby authorized to, obtain a continuation or report of title or title insurance policy prepared by a title insurance company of Mortgagee's choosing. All such advances and Indebtedness authorized shall be repayable by Mortgagor upon demand with interest at the Default Rate;

(c) Prosecute and defend all actions or proceedings in connection with the Premises or the construction of the Improvements; and

(d) Take such action and require such performance as it, in its sole and absolute discretion, deems necessary.

10.03 Expense of Litigation. In any suit to foreclose the lien of this Mortgage or enforce any other remedy of the Mortgagee under this Mortgage, the Note or under the other Loan Documents, there shall be allowed and included as additional Indebtedness in the judgment or decree, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title insurance policies and similar data and assurances with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree, the true condition of the title to or value of the Premises. All expenditures and expenses of the nature in this Paragraph mentioned, and such expenses and fees as may be incurred in the protection of said Premises and the maintenance of the lien of this Mortgagee, including the reasonable fees of any attorney relating to this Mortgage, the Note or the Premises, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding, shall, upon notice from Mortgagee, be immediately due and payable by Mortgagor, with interest thereon at the Default Rate commencing on the date set forth in Mortgagee's notice until paid in full.

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10.04 Mortgagee's Right of Possession in Case of Event of Default. In any case in which, under the provisions of this Mortgage or the Loan Documents, the Mortgagee has a right to institute foreclosure proceedings whether or not the entire principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof, or before or after sale thereunder, Mortgagor shall forthwith upon demand of Mortgagee, surrender to Mortgagee, and Mortgagee shall be entitled to be placed in possession of, the Premises, as provided by applicable law, and Mortgagee, in its discretion, may enter upon and take and maintain possession of all or any part of said Premises, together with all documents, books, records, papers, and accounts of the Mortgagor or the then owner of the Premises relating thereto, and may exclude the Mortgagor, its agents or servants, wholly therefrom, and may, in its own name as Mortgagee and under the powers herein granted:

- (a) Hold, operate, manage and control the Premises and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Premises including actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, hereby granting full power and authority to exercise each and every of the rights, privileges, and powers herein granted at any and all times hereafter, without notice to the Mortgagor;
- (b) Cancel or terminate any lease, sublease or management agreement for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (c) Elect to disaffirm any lease, sublease or management agreement of all or any part of the Premises made subsequent to the Mortgage without Mortgagee's prior written consent;
- (d) Extend or modify any then existing Lease(s), sublease(s) or management agreement(s) and make new leases(s), sublease(s) or management agreement(s), which extensions, modifications, and new lease(s), sublease(s) or management agreement(s) may provide for terms to expire, or for options to extend or renew terms to expire, beyond the maturity date of the Indebtedness hereunder and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such lease(s), sublease(s) and management agreement(s) and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Premises are subject to the lien hereof and shall also be binding upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge or the mortgage Indebtedness, satisfactory of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser;
- (e) Make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments and improvements to the Premises as the Mortgagee may seem judicious, to insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all avails, rents, deposits, issues and profits; and
- (f) Apply the net income, after allowing a reasonable fee for the collection thereof and the management of the Premises, to the payment of taxes, premiums and other charges applicable

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to the Premises, or in reduction of the Indebtedness under the Note, the Loan Agreement and the other Loan Documents in such order and manner as Mortgagee may select.

10.05 Mortgagee's Determination of Priority of Payments. Any avails, rents, issues and profits of the Premises received by the Mortgagee after having taken possession of the Premises, or pursuant to any assignment thereof to the Mortgagee under the provisions of this Mortgage, the Loan Documents or any separate security documents or instruments, shall be applied in payment of or on account of the following, in such order as the Mortgagee or, in case of a receivership, as the court may determine:

(a) To the payment of the operation expenses of the Premises, which shall include reasonable compensation to the Mortgagee or the receiver and its agent or agents, if management of the Premises has been delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases, established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) To the payment of taxes, special assessments and water taxes now due or which may hereafter become due on the Premises, or which may become a lien prior to the lien of this Mortgage;

(c) To the payment of all repairs and replacements of said Premises and of placing said property in such condition as will, in the judgment of Mortgagee or receiver, make it readily rentable;

(d) To the payment of any Indebtedness secured hereby or under the Loan Documents or any deficiency which may result from any foreclosure sale; and

(e) Any overplus or remaining funds to the Mortgagor, its successors or assigns, as their rights may appear.

10.06 Appointment of Receiver. Upon or at any time after the filing of any complaint to foreclose this Mortgage, the court may, upon application by Mortgagee and at Mortgagee's sole option, appoint a receiver of the Premises pursuant to applicable law. Such appointment may be made either before or after sale upon appropriate notice as provided by law and without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the Indebtedness secured hereby and without regard to the then value of the Premises, and without bond being required of the applicant. Mortgagee or any employee or agent thereof may be appointed as such receiver. Such receiver shall have the power to take possession, control and care of the Premises and to collect the rents, issues, and profits of the Premises during the pendency of such foreclosure suit, and in case of a sale and a deficiency, during the full statutory period of redemption (provided that the period of redemption has not been waived by the Mortgagor), as well as during any further times when the Mortgagor, its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and for all other powers which may be necessary or are useful in such cases for the protection, possession, control, management and operation of the Premises during the whole of said period, to extend or modify any then new lease(s), sublease(s) or management agreement(s), and to make new lease(s), sublease(s) or management agreement(s), which extensions, modifications, and new lease(s), sublease(s) or management agreement(s) may provide for terms to expire, or for options to lease(s) to extend or renew terms to expire, beyond the maturity date of

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the Indebtedness hereunder, it being understood and agreed that any such lease(s), sublease(s) and management agreement(s) and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interest in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the mortgage Indebtedness, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser.

10.07 Application of Proceeds of Foreclosure Suit. The proceeds of any foreclosure sale of the Premises shall be distributed and applied in the following order of priority:

- (a) First, to all reasonable costs and expenses incident to and incurred as a result of the foreclosure proceedings;
- (b) Second, to all other items which, under the terms hereof, constitute Indebtedness additional to that evidenced by the Note, with interest thereon at the Default Rate;
- (c) Third, to all interest (calculated at the Default Rate) remaining unpaid on the Note;
- (d) Fourth, to all principal remaining unpaid on the Note;
- (e) Fifth, any overplus to Mortgagor, its successor or assigns, as their rights may appear.

10.08 Rescission of or Failure to Exercise. The failure of the Mortgagee to exercise the option for acceleration or maturity and/or foreclosure following any Event of Default as aforesaid, or to exercise any other option granted to the Mortgagee hereunder in any one or more instances, or the acceptance by Mortgagee of partial payments hereunder, shall not constitute a waiver of any such Event of Default nor extend or affect any cure period, if any, but such option shall remain continuously in force. Acceleration of maturity, once claimed hereunder by Mortgagee, may, at the option of Mortgagee, be rescinded by written acknowledgment to that effect by the Mortgagee and shall not affect the Mortgagee's right to accelerate the maturity for any future Event of Default.

10.09 Sale of Separate Parcels, Right of Mortgagee to Purchase. In the event of any foreclosure sale of said Premises, the same may be sold in one or more parcels as applicable. Mortgagee may be the purchaser at any foreclosure sale of the Premises or any part thereof.

10.10 Insurance During Foreclosure. In the case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any Insurance Policy, if not applied in rebuilding or restoring the Improvements, as aforesaid, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. The foreclosure decree may provide that the Mortgagee's claim attached to each of the casualty Insurance Policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said casualty Insurance Policies making the loss thereunder payable to said decree creditor. The foreclosure decree may further provide that in the case of one or more redemptions under said decree, each successive redemption may cause the preceding loss clause attached to each casualty Insurance Policy to be canceled and a new loss payable clause to be attached thereto, making the loss thereunder payable to such redepton. In the event of foreclosure sale, Mortgagee may, without the

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consent of Mortgagor, assign any Insurance Policies to the purchaser at the sale, or take such other steps as Mortgagee may deem advisable to protect the interest of such purchaser.

10.11 Waiver of Right of Redemption and Other Rights. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR AGREES THAT IT WILL NOT AT ANY TIME OR IN ANY MANNER WHATSOEVER TAKE ANY ADVANTAGE OF ANY STAY, EXEMPTION OR EXTENSION LAW OR ANY SO-CALLED "MORATORIUM LAW" NOW OR AT ANY TIME HEREAFTER IN FORCE, NOR TAKE ANY ADVANTAGE OF ANY LAW NOW OR HEREAFTER IN FORCE PROVIDING FOR THE VALUATION OR APPRAISEMENT OF THE PREMISES, OR ANY PART THEREOF, PRIOR TO ANY SALE THEREOF TO BE MADE PURSUANT TO ANY PROVISIONS HEREIN CONTAINED, OR TO ANY DECREE, JUDGMENT OR ORDER OF ANY COURT OF COMPETENT JURISDICTION; OR AFTER SUCH SALE CLAIM OR EXERCISE ANY RIGHTS UNDER ANY STATUTE NOW OR HEREAFTER IN FORCE TO REDEEM THE PROPERTY SO SOLD, OR ANY PART THEREOF, OR RELATING TO THE MARSHALING THEREOF, UPON FORECLOSURE SALE OR OTHER ENFORCEMENT HEREOF. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO REQUIRE THAT THE PREMISES BE SOLD AS SEPARATE TRACTS OR UNITS IN THE EVENT OF FORECLOSURE. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS OF REDEMPTION ON ITS OWN BEHALF, ON BEHALF OF ALL PERSONS CLAIMING OR HAVING AN INTEREST (DIRECT OR INDIRECT) BY, THROUGH OR UNDER MORTGAGOR AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PREMISES SUBSEQUENT TO THE DATE HEREOF, IT BEING THE INTENT HEREOF THAT ANY AND ALL SUCH RIGHTS OF REDEMPTION OF MORTGAGOR AND SUCH OTHER PERSONS, ARE AND SHALL BE DEEMED TO BE HEREBY WAIVED TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR AGREES THAT IT WILL NOT, BY INVOKING OR UTILIZING ANY APPLICABLE LAW OR LAWS OR OTHERWISE, HINDER, DELAY OR IMPEDE THE EXERCISE OF ANY RIGHT, POWER OR REMEDY HEREIN OR OTHERWISE GRANTED OR DELEGATED TO MORTGAGEE, BUT WILL PERMIT THE EXERCISE OF EVERY SUCH RIGHT, POWER AND REMEDY AS THOUGH NO SUCH LAW OR LAWS HAVE BEEN OR WILL HAVE BEEN MADE OR ENACTED. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY AGREES THAT NO ACTION FOR THE ENFORCEMENT OF THE LIEN OR ANY PROVISION HEREOF SHALL BE SUBJECT TO ANY DEFENSE WHICH WOULD NOT BE GOOD AND VALID IN AN ACTION AT LAW UPON THE NOTE. MORTGAGOR ACKNOWLEDGES THAT THE PREMISES DO NOT CONSTITUTE AGRICULTURAL REAL ESTATE OR RESIDENTIAL REAL ESTATE. MORTGAGOR ACKNOWLEDGES THAT A RIGHT TO A JURY TRIAL IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. THE MORTGAGOR, AFTER CONSULTING WITH COUNSEL OF CHOICE (OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL), KNOWINGLY, VOLUNTARILY AND WITHOUT COERCION, WAIVES ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES BETWEEN THE MORTGAGOR AND THE MORTGAGEE. THE MORTGAGEE SHALL NOT BE DEEMED TO HAVE WAIVED ANY RIGHT TO A JURY TRIAL UNLESS THAT WAIVER IS EXPRESSLY MADE IN A WRITTEN INSTRUMENT EXECUTED BY THE MORTGAGEE.

10.12 Mortgagee's Performance of Mortgagor's Obligations. In case of Default, either before or after acceleration of the Indebtedness or the foreclosure of the lien hereof, Mortgagee may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not

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Mortgagor is personally liable therefor) in any manner deemed expedient to Mortgagee. Mortgagee may, but shall not be required to, furnish and equip the Improvements and rent, operate and manage the Premises and the Improvements and pay operating costs, including management fees, of every kind in connection therewith, so that the Premises shall be usable for their intended purposes. All such monies paid and expenses incurred, including reasonable attorneys' fees, shall be so much additional Indebtedness, whether or not the Indebtedness, as a result thereof, shall exceed the face amount of the Note, and shall become immediately due with interest thereon at the Default Rate specified in the Note. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any Default nor shall the provisions of this Paragraph or any exercise by Mortgagee of its right hereunder prevent any default from constituting an Event of Default. Mortgagee is hereby authorized to make any payment:

- (a) Relating to taxes, and may do so according to any bill, statement or estimate, without inquiry into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof;
- (b) For the purchase, discharge, compromise or settlement of any lien, and may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or
- (c) In connection with the furnishing or equipping of the Premises or the rental, operation or management of the Premises or the payment of operating costs thereof, may do so in such amounts and to such persons as Mortgagee may deem appropriate. Nothing contained herein shall be construed to require Mortgagee to advance monies for any purpose.

ARTICLE XI

MISCELLANEOUS

11.01 Rights and Remedies Cumulative. All rights and remedies herein provided are cumulative and the holder of the Note secured hereby and of every other obligation secured hereby may recover judgment hereon, issue execution therefor, and resort to every other right or remedy available in law or in equity, without first exhausting and without affecting or impairing the security of any right afforded by this Mortgage.

11.02 Notice. Any notice provided for in this Agreement must be in writing and must be either (a) personally delivered, (b) mailed by registered or certified first class mail, prepaid with return receipt requested, (c) sent by a nationally recognized overnight courier service, or (d) sent by facsimile with proof of transmission, to the recipient at the address or facsimile number below indicated:

If to Mortgagor:

Katherine Ivers
8625 Calera Dr.
Austin TX 78735
 Facsimile: _____

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If to Mortgagee:

Regions Bank
250 Riverchase Pkwy. E.
Hoover AL 35244

Facsimile: _____

With a copy to:

Facsimile: _____

or such other address or facsimile number or to the attention of such other person as the recipient party shall have specified by prior written notice to the sending party. Any notice hereunder will be deemed to have been given (a) on the date such notice is personally delivered, (b) three (3) days after the date of mailing if sent by certified or registered mail, (c) one (1) day after the date such notice is delivered to the overnight courier service if sent by overnight courier, or (d) as of the beginning of the next Business Day if such notice is sent by facsimile.

11.03 Time is of the Essence It is specifically agreed that time is of the essence of this Mortgage. The waiver of the options or obligations secured hereby or under the Loan Documents shall not at any time thereafter be held to be abandonment of such rights. Except as otherwise specifically required, notice of the exercise of any option granted to the Mortgagee herein, or in the Note secured hereby or in the Loan Documents is not required to be given.

11.04 Covenants. All the covenants herein contained shall run with the land.

11.05 Captions. Captions in this Mortgage are for convenience of reference only and shall not define or limit any of the terms or provisions hereof. References herein to Articles or provisions without reference to the document in which they are contained are references to this Mortgage.

11.06 Business Loan. Mortgagor specifically represents that the proceeds of the Note will be used for and the principal obligations secured hereby constitute "business loans" within the definition and purview of 815 ILCS 205/4, as amended from time to time.

11.07 Severability. Whenever possible, each provision of this Mortgage will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage is held to be invalid, illegal or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality or unenforceability will not affect any other provision or any other jurisdiction, but this Mortgage will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision had never been contained herein.

11.08 Successors. This Mortgage shall, upon execution and delivery by the Mortgagor and acceptance by the Mortgagee at its principal place of business (or at such other place as may be designated by the Mortgagee), become effective and shall be binding upon and inure to the benefit of the Mortgagor, the Mortgagee and their respective successors and assigns, except that the Mortgagor may not transfer or assign any of its rights or interest hereunder without the prior written consent of the Mortgagee.

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11.09 Consent. Wherever in this Mortgage, the consent of either the Mortgagor or Mortgagee is required, such consent shall not be unreasonably withheld.

11.10 Subrogation. In the event the proceeds of the loan made by the Mortgagee to the Mortgagor, or any part thereof, or any amount paid out or advanced by the Mortgagee, shall be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Premises or any part thereof, then the Mortgagee shall be subrogated to such other lien or encumbrance and to any additional security held by the holder thereof and shall have the benefit of the priority of all of same.

11.11 Release. This Mortgage shall be released upon the Borrower's and/or Mortgagor's payment in full and satisfaction of all liabilities and obligations herein, in the Note and in the other Loan Documents.

11.12 Construction. This Mortgage has been executed in, and shall be governed by the laws of, the State of Illinois, which laws shall also govern and control the construction, enforceability, validity and interpretation of this Agreement.

11.13 Forum Selection. TO INDUCE MORTGAGEE TO ACCEPT THIS MORTGAGE AND MAKE THE LOANS SECURED HEREBY, MORTGAGOR HEREBY IRREVOCABLY AGREES THAT, SUBJECT TO THE MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THIS MORTGAGE SHALL BE LITIGATED IN COURTS HAVING SITUS WITHIN THE COUNTY OF COOK, STATE OF ILLINOIS. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID COUNTY AND STATE. MORTGAGOR HEREBY WAIVES ANY RIGHT IT MAY HAVE TO TRANSFER OR CHANGE THE VENUE OF ANY LITIGATION BROUGHT AGAINST IT BY THE MORTGAGEE IN ACCORDANCE WITH THIS PARAGRAPH.

11.14 Waiver of Homestead Rights. Mortgagor hereby expressly waives and releases any and all right or benefit under and by virtue of any and all statutes of the State of Illinois providing for the exemption of homesteads from sale on execution or otherwise.

11.15 United States Small Business Administration. The loan secured by this instrument was made under a United States Small Business Administration (SBA) nationwide program which uses tax dollars to assist small business owners. If the United States is seeking to enforce this document, then under SBA regulations:

a. When SBA is the holder of the Note, this document and all documents evidencing or securing this loan will be construed in accordance with federal law.

b. Secured Party or SBA may use local or state procedures for purposes such as filing papers, recording documents, giving notice, foreclosing liens, and other purposes. By using these procedures, SBA does not waive any federal immunity from local or state control, penalty, tax or liability. No Debtor or Guarantor may claim or assert against SBA any local or state law to deny any obligation of Debtor, or defeat any claim of SBA with respect to the loan.

Any clause in this document requiring arbitration is not enforceable when SBA is the holder of the Note secured by this instrument.

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EXHIBIT A

LEGAL DESCRIPTION

UNIT 2026-3 IN ELEANOR CONDOMINIUM, AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

THE SOUTH 50 FEET OF LOT 1 IN S.T. COOPER'S SUBDIVISION OF LOT 17 IN BLOCK 2 IN JULIA FOSTER PORTER'S SUBDIVISION OF BLOCK 27 IN CANAL TRUSTEES' SUBDIVISION IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS; WHICH SURVEY IS ATTACHED AS DOCUMENT EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM FILED AS LR3139132, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS.

PIN: 14-33-127-012-1005

Property of Cook County Clerk's Office