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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



1534245062

Doc#: 1534245062 Fee: \$56.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 12/08/2015 12:40 PM Pg: 1 of 10

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN: 14-08-106-014-0000**

Address:

Street: 5532 N. Broadway

Street line 2:

City: Chicago

State: IL

ZIP Code: 60640

Lender: Firsttrust Bank

Borrower: ACA Building, LLC

Loan / Mortgage Amount: \$1,600,000.00

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

Certificate number: 516F0E54-795F-4789-9064-55B087D6B738

Execution date: 12/2/2015

NCS 761806C 3 of 3

CCRD REVIEWER 

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PREPARED BY:

Bradley D. O'Brien, Esq.
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Suite 600
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UPON RECORDING RETURN TO:

Bradley D. O'Brien, Esq.
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Suite 600
Philadelphia, PA 19102

Tax ID No.: 14-08-106-014-0000

MORTGAGE, SECURITY AGREEMENT, AND FIXTURE FILING

[Illinois]

ACA BUILDING, LLC, as Mortgagor

To

FIRSTRUST BANK, as Mortgagee

THIS MORTGAGE AND SECURITY AGREEMENT (this "**Mortgage**") is made as of the 2 day of December, 2015, by **ACA BUILDING, LLC**, an Illinois limited liability company (the "**Mortgagor**"), with an address at 3930 Commerce Avenue, Willow Grove, PA 19090, in favor of **FIRSTRUST BANK** (the "**Mortgagee**"), with an address at 15 East Ridge Pike, Conshohocken, PA 19428.

The Mortgagee has established a Loan for or guaranteed by the Mortgagor or for which the Property is being mortgaged hereby in the amount not to exceed **\$1,600,000.00** (the "**Loan**"), which Loan is evidenced by one or more promissory notes or guaranty agreements in favor of the Mortgagee (herein, the "**Note**"). For the purpose of securing the payment and performance of the Loan, the Note and all

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other loans, advances, debts, liabilities, obligations, covenants and duties owing by the Borrower to the Mortgagee, of any kind or nature, present or future (including any interest accruing thereon after maturity, or after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding), whether or not evidenced by any note, guaranty or other instrument, whether arising under any agreement, instrument or document, whether or not for the payment of money, whether arising by reason of an extension of credit, opening of a letter of credit, loan, equipment lease or guarantee, under any interest or currency swap, future, option or other interest rate protection or similar agreement, or guarantee or in any other manner, whether arising out of overdrafts on deposit or other accounts or electronic funds transfers (whether through automated clearing houses or otherwise) or out of the Mortgagee's non-receipt of or inability to collect funds or otherwise not being made whole in connection with depository transfer check or other similar arrangements, whether direct or indirect (including those acquired by assignment or participation), absolute or contingent, joint or several, due or to become due, now existing or hereafter arising, and any amendments, extensions, renewals or increases and all costs and expenses of the Mortgagee incurred in the documentation, negotiation, modification, enforcement, collection or otherwise in connection with any of the foregoing, including reasonable attorneys' fees and expenses (collectively, the "**Obligations**"), and any sums advanced by the Mortgagee or which may otherwise become due pursuant to the provisions of the Note or this Mortgage or pursuant to any other document or instrument at any time delivered to the Mortgagee to evidence or secure any of the Obligations or which otherwise relate to any of the Obligations (as the same may be amended, supplemented or replaced from time to time, the "**Loan Documents**"), the Mortgagor, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, does hereby give, grant, bargain, sell, convey, assign, transfer, mortgage, warrant, hypothecate, pledge, set over and confirm unto the Mortgagee and does agree that the Mortgagee shall have a security interest in the following described property, all accessions and additions thereto, all substitutions therefor and replacements and proceeds thereof, and all reversions and remainders of such property now owned or held or hereafter acquired (the "**Property**"), to wit:

(a) All of the Mortgagor's estate in the premises described in **Exhibit A**, together with all of the easements, rights of way, privileges, liberties, hereditaments, fore, streets, alleys, passages, ways, waters, watercourses, rights and appurtenances thereunto belonging or appertaining, and all of the Mortgagor's estate, right, title, interest, claim and demand therein and in the public streets and ways adjacent thereto, either in law or in equity (the "**Land**");

(b) All the buildings, structures and improvements of every kind and description now or hereafter erected or placed on the Land, and all facilities, fixtures, machinery, apparatus, appliances, installations, machinery and equipment, including, without limitation, electrical equipment necessary for the operation of such buildings and heating, air conditioning and plumbing equipment now or hereafter attached to, located in or used in connection with those buildings, structures or other improvements (the "**Improvements**"); and

(c) All rents, issues and profits arising or issuing from the Land and the Improvements (the "**Rents**") including, but not limited to, the Rents arising or issuing from all leases and subleases now or hereafter entered into covering all or any part of the Land and Improvements (the "**Leases**"), **all of which Leases and Rents are hereby assigned to the Mortgagee by the Mortgagor as security for the Obligations.** The Mortgagor will execute and deliver to the Mortgagee, on demand, such assignments and instruments as the Mortgagee may require to implement, confirm, maintain and continue the assignment hereunder.

To have and to hold the same unto the Mortgagee, its successors and assigns, forever.

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Provided, however, that if the Mortgagor shall pay to the Mortgagee the Obligations, and if the Mortgagor shall keep and perform each of its other covenants, conditions and agreements set forth herein and in the Note, then, upon the termination of all obligations, duties and commitments of the Mortgagor under the Obligations and this Mortgage, the estate hereby granted and conveyed shall become null and void.

Until all of the Obligations are indefeasibly paid in full, the amount secured by this Mortgage shall not be reduced in any manner whatsoever by any amounts which the Mortgagee may realize before or after maturity of the Obligations, by acceleration or otherwise, as a result of payments made by or on behalf of the Mortgagor or any other person or entity other than the Mortgagor primarily or secondarily liable for the Obligations or any part thereof, or otherwise credited to the Mortgagor or such other person or entity, or as a result of the exercise of the Mortgagee's rights with respect to any collateral for the Obligations or any part thereof other than the Property. Payments realized from the Property after maturity of the Obligations, by acceleration or otherwise, shall reduce the amount secured hereby.

1. Warranty of Title. The Mortgagor warrants that the Mortgagor presently possesses a fee simple title to the Property; and that this Mortgage is a valid and enforceable first priority lien on the Property. The Mortgagor shall preserve such title and the validity and priority of the lien hereof and shall forever warrant and defend the same to the Mortgagee against any claims.

2. Security Agreement. This Mortgage creates a continuing security interest in the personal property and fixtures included among the Property and constitutes a security agreement under the Uniform Commercial Code of the State where the Property is located. In addition to the other purposes of this Mortgage, the recording of this Mortgage constitutes the filing of a financing statement as to property which is or becomes a fixture related to the Land.

3. Taxes and Assessments. The Mortgagor agrees to pay when due all taxes, charges, claims, assessments, water rents and sewer rents which may by law become a lien on the Property. The Mortgagor agrees to exhibit to the Mortgagee receipts or other evidence satisfactory to the Mortgagee showing the payment of all such taxes or other claims. The Mortgagee may require that sums sufficient to discharge the taxes be deposited in installments with the Mortgagee.

4. Insurance. The Mortgagor agrees to provide all-risk insurance coverage on the Property in an amount sufficient to prevent the Mortgagor from becoming a co-insurer under the terms of the policy. All policies and renewals shall be written by insurance companies and in a form acceptable to the Mortgagee, shall include a standard mortgagee clause in favor of the Mortgagee, shall contain a provision requiring that the coverage evidenced thereby will not be terminated or modified without at least thirty (30) days' prior written notice to Mortgagee and upon request be deposited, premiums paid, with the Mortgagee. If the Property is located in an area which has been identified by any governmental agency, authority or body as a flood hazard area or the like, then the Mortgagor shall maintain a flood insurance policy covering the Property in an amount not less than the original principal amount of the Loan or the maximum limit of coverage available under the federal program, whichever amount is less. If the Mortgagor fails to carry any insurance required to be carried by the Mortgagor under the terms of this Mortgage, the Mortgagee, at its option, may procure and maintain such insurance and the Mortgagor will promptly reimburse the Mortgagee for any premiums paid by the Mortgagee for such insurance. In case of a loss payable under such insurance for damage to or destruction of the Property, the right to adjust all claims under such insurance policies (jointly with the Mortgagor), and the application of the proceeds of any such claim, are assigned to the Mortgagee. The Mortgagor hereby assigns to the Mortgagee all amounts recoverable under any such policy. All insurance proceeds may, at the Mortgagee's sole option, be applied to all or any part of the Obligations and in any order (notwithstanding that such Obligations may not

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then otherwise be due and payable) or to the repair and restoration of any of the Property under such terms and conditions as the Mortgagee may impose.

5. Maintenance; Inspection. The Mortgagor agrees not to materially alter, remove or demolish any Improvements except for such as do not decrease the value of the Improvements. The Mortgagor shall keep the Property in good repair, reasonable wear and tear excepted, and shall not commit or suffer waste thereof. The Mortgagor agrees to entries upon and inspections of the Property by the Mortgagee.

6. Hazardous Substances. The Mortgagor covenants that to its best knowledge there does not presently exist and there shall not exist after the date of this Mortgage any hazardous substance (as such term is defined by any federal, state or local law or regulation) which is not stored, contained, or used in compliance with all applicable laws and regulations in or on the Property and there has not been and there shall not occur any seepage, spill, release or discharge of any hazardous substance on or from the Property at any time. Upon the Mortgagee's request, the Mortgagor shall execute and deliver an Environmental Indemnity Agreement satisfactory in form and substance to the Mortgagee, to provide additional representations, warranties, covenants and indemnities of the Mortgagor with respect to environmental matters.

7. Condemnation. The Mortgagor agrees that the proceeds of any award of claim for damages, direct or consequential, in connection with any condemnation, or other taking of the Property, or any part thereof, or for conveyance in lieu of condemnation are hereby assigned and shall be paid to the Mortgagee, up to the amount of the Obligations.

8. Due on Sale Clause. The Mortgagor shall not sell, convey or otherwise transfer any interest in the Property (whether voluntarily or by operation of law), or agree to do so, without the Mortgagee's prior written consent, including but not limited to: (a) any sale, conveyance, assignment, or other transfer of (including installment land sale contracts) or the grant of a security interest in, all or any part of the legal and/or equitable title to the Property; (b) any lease of all or any portion of the Property other than to tenants in the ordinary course of business; or (c) any sale, conveyance, assignment, or other transfer of, or the grant of a security interest in, any ownership interest in the Mortgagor, except in favor of the Mortgagee. Any default under this Section shall cause an immediate acceleration of the Obligations without any demand by the Mortgagee.

9. Events of Default. The occurrence of any Event of Default under and as defined in (including applicable notice and cure provisions which are within such definition of Event of Default) that certain Letter Agreement to which Mortgagor and Mortgagee are parties dated as of June 25, 2007, as amended (as amended to date, the "**Loan Agreement**" and, together with all related documents, being herein collectively referred to as the "**Loan Documents**") shall constitute an "**Event of Default**" hereunder.

10. Rights and Remedies of Mortgagee. If an Event of Default occurs, the Mortgagee may, at its option and without demand, notice or delay, do one or more of the following:

(a) The Mortgagee may declare the entire unpaid principal balance of the Obligations, together with all interest thereon, to be due and payable immediately.

(b) The Mortgagee may: (i) institute and maintain an action of mortgage foreclosure against the Property and the interests of the Mortgagor therein; (ii) institute and maintain an action on any instruments evidencing the Obligations or any portion thereof; and (iii) take such other action at law or in equity for the enforcement of any of the Loan Documents as the law may allow, and in each such action the Mortgagee shall be entitled to all costs of suit and attorneys fees.

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(c) The Mortgagee may, in its sole and absolute discretion: (i) collect any or all of the Rents, including any Rents past due and unpaid; (ii) perform any obligation or exercise any right or remedy of the Mortgagor under any Lease; or (iii) enforce any obligation of any tenant of any of the Property. The Mortgagee may exercise any right under this subsection (c), whether or not the Mortgagee shall have entered into possession of any of the Property, and nothing herein contained shall be construed as constituting the Mortgagee a "mortgagee in possession", unless the Mortgagee shall have entered into and shall continue to be in actual possession of the Property. The Mortgagor hereby authorizes and directs each and every present and future tenant of any of the Property to pay all Rents directly to the Mortgagee and to perform all other obligations of that tenant for the direct benefit of the Mortgagee, as if the Mortgagee were the landlord under the Lease with that tenant, immediately upon receipt of a demand by the Mortgagee to make such payment or perform such obligations.

(d) The Mortgagee shall have the right, in connection with the exercise of its remedies hereunder, to the appointment of a receiver to take possession and control of the Property and/or to collect the Rents, without notice and without regard to the adequacy of the Property to secure the Obligations. A receiver while in possession of the Property shall have the right to make repairs and to make improvements necessary or advisable in its or his opinion to preserve the Property, or to make and keep them rentable to the best advantage, and the Mortgagee may advance moneys to a receiver for such purposes. Any moneys so expended or advanced shall be added to and become a part of the Obligations secured by this Mortgage.

11. Application of Proceeds. The Mortgagee shall apply the proceeds of any foreclosure sale of, or other disposition or realization upon, or Rents or profits from, the Property to satisfy the Obligations in such order of application as the Mortgagee shall determine in its exclusive discretion.

12. CONFESSION OF JUDGMENT IN EJECTMENT. IF PERMITTED BY LAW, AT ANY TIME AFTER THE OCCURRENCE OF AN EVENT OF DEFAULT, WITHOUT FURTHER NOTICE, REGARDLESS OF WHETHER THE MORTGAGEE HAS ASSERTED ANY OTHER RIGHT OR EXERCISED ANY OTHER REMEDY UNDER THIS MORTGAGE OR ANY OF THE OTHER LOAN DOCUMENTS, IT SHALL BE LAWFUL FOR ANY ATTORNEY OF ANY COURT OF RECORD AS ATTORNEY FOR THE MORTGAGOR TO CONFESS JUDGMENT IN EJECTMENT AGAINST THE MORTGAGOR AND ALL PERSONS CLAIMING UNDER THE MORTGAGOR FOR THE RECOVERY BY THE MORTGAGEE OF POSSESSION OF ALL OR ANY PART OF THE PROPERTY, FOR WHICH THIS MORTGAGE SHALL BE SUFFICIENT WARRANT. IF FOR ANY REASON AFTER SUCH ACTION SHALL HAVE COMMENCED THE SAME SHALL BE DISCONTINUED AND THE POSSESSION OF THE PROPERTY SHALL REMAIN IN OR BE RESTORED TO THE MORTGAGOR, THE MORTGAGEE SHALL HAVE THE RIGHT UPON ANY SUBSEQUENT DEFAULT OR DEFAULTS TO BRING ONE OR MORE AMICABLE ACTION OR ACTIONS AS HEREINBEFORE SET FORTH TO RECOVER POSSESSION OF ALL OR ANY PART OF THE PROPERTY.

13. Mortgagee's Right to Protect Security. The Mortgagee is hereby authorized, irrespective of whether an Event of Default has occurred, to appear in and defend any action or proceeding purporting to affect the security hereof or the Mortgagee's rights or powers hereunder, to take such action as the Mortgagee may determine to pay, perform or comply with any taxes or governmental requirements, to cure any Events of Default and to protect its security in the Property.

14. Notices. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt to the Mortgagor or the Mortgagee. Such notices and other communications may be hand-delivered, sent by facsimile

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transmission with confirmation of delivery and a copy sent by first-class mail, or sent by nationally recognized overnight courier service, to a party's address set forth above or to such other address as the Mortgagor or the Mortgagee may give to the other in writing for such purpose.

15. Preservation of Rights. No delay or omission on the Mortgagee's part to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power, nor will the Mortgagee's action or inaction impair any such right or power. The Mortgagee's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which the Mortgagee may have under other agreements, at law or in equity.

16. Changes in Writing. No modification, amendment or waiver of any provision of this Mortgage not consent to any departure by the Mortgagor therefrom, will be effective unless made in a writing signed by the Mortgagee, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Mortgagor in any case will entitle the Mortgagor to any other or further notice or demand in the same, similar or other circumstance.

17. Successors and Assigns. This Mortgage will be binding upon and inure to the benefit of the Mortgagor and the Mortgagee and their respective heirs, executors, administrators, successors and assigns; provided, however, that the Mortgagor may not assign this Mortgage in whole or in part without the Mortgagee's prior written consent and the Mortgagee at any time may assign this Mortgage in whole or in part.

18. Interpretation. Section headings in this Mortgage are included for convenience of reference only and shall not constitute a part of this Mortgage for any other purpose. If this Mortgage is executed by more than one party as Mortgagor, the obligations of such persons or entities will be joint and several.

19. Governing Law. THIS MORTGAGE WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE MORTGAGOR AND THE MORTGAGEE DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE WHERE THE MORTGAGEE'S OFFICE INDICATED ABOVE IS LOCATED, EXCEPT THAT THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED (IF DIFFERENT FROM THE STATE WHERE SUCH OFFICE OF THE MORTGAGEE IS LOCATED) SHALL GOVERN THE CREATION AND FORECLOSURE OF THE LIENS CREATED HEREUNDER ON SUCH PROPERTY OR ANY INTEREST THEREIN.

20. WAIVER OF JURY TRIAL. THE MORTGAGOR IRREVOCABLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS MORTGAGE, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS MORTGAGE OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE MORTGAGOR ACKNOWLEDGES THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

The Mortgagor acknowledges that it has read and understood all the provisions of this Mortgage, including the waiver of jury trial, and has been advised by counsel as necessary or appropriate.

WITNESS the due execution hereof as a document under seal, as of the date first written above, with the intent to be legally bound hereby.

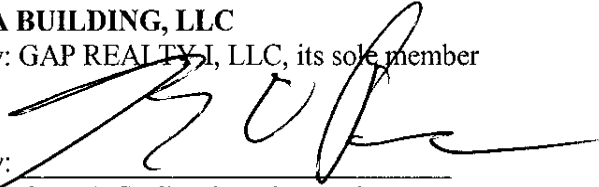
[signature on following page]

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[signature page to Mortgage, Security Agreement, and Fixture Filing]

ACA BUILDING, LLC

By: GAP REALTY-I, LLC, its sole member

By: 

Gary A. Pudles, its sole member

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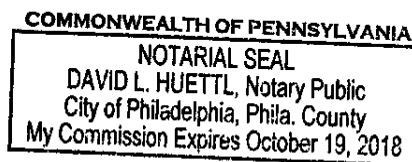
STATE OF PA)
)
COUNTY OF Philadelphia) ss:

On this, the 2 day of December, 2015, before me, the subscriber, personally appeared Gary A. Pudles, who I am satisfied is the person who executed the foregoing instrument as the sole member of GAP REALTY I, LLC, sole member of ACA BUILDING, LLC, an Illinois limited liability company, the entity named in the foregoing instrument, and who acknowledged that he, in such capacity, being authorized to do so, executed the foregoing instrument as such entity's voluntary act and deed for the purposes therein contained by signing on behalf of said entity.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

[Signature]

(Print Name and Title)



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EXHIBIT "A"

LEGAL DESCRIPTION

THE SOUTH 10 FEET OF LOT 10 AND THE NORTH 20 FEET OF LOT 11 IN BLOCK 1 IN COCHRAN'S 3RD ADDITION TO EDGEWATER, BEING A SUBDIVISION OF THE EAST 1/2 OF THE NORTHWEST 1/4 OF SECTION 8, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

5532 N. Broadway
Chicago, IL 60640
14-08-106-014-000

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