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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

Report Mortgage Fraud
800-532-8785



Doc#: 1605019097 Fee: \$82.00
RHSP Fee: \$9.00 RPRF Fee: \$1.00
Karen A. Yarbrough
Cook County Recorder of Deeds
Date: 02/19/2016 02:20 PM Pg: 1 of 23

8980303

The property identified as: PIN: 08-34-203-016-0000

Address:

Street: 1500 BUSSE HIGHWAY

Street line 2:

City: ELK GROVE VILLAGE

State: IL

ZIP Code: 60007

Lender: WINTRUST BANK

Borrower: RICHPORT PROPERTY LLC

Loan / Mortgage Amount: \$50,000,000.00

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

Certificate number: 114155EE-84FE-493C-A855-BA5AF1EDFFA8

Execution date: 2/16/2016


CCRD REVIEWER

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This instrument prepared by
and upon recording return to:

Michael C. Jurasek, Esq.
Dinsmore & Shohl LLP
227 W. Monroe Street, Suite 3850
Chicago, Illinois 60606

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

This Mortgage, Security Agreement and Fixture Filing ("Mortgage"), is made effective as of the 16th day of February, 2016, by **RICHPORT PROPERTY, LLC**, an Illinois limited liability company, whose mailing address is 18W140 Butterfield Road, Suite 940, Oak Brook Terrace, Illinois 60181 ("Mortgago"), in favor of **WINTRUST BANK**, a subsidiary of Wintrust Financial Corp., an Illinois banking corporation, whose mailing address is 231 South LaSalle Street, 2nd Floor, Chicago, Illinois 60603 ("Mortgagee").

WITNESSETH:

WHEREAS, Mortgagee has this date made a term loan to Mortgagor in the principal amount of \$50,000,000.00 ("Loan"), pursuant to that certain Credit Agreement between Mortgagor and Mortgagee of even date herewith ("Credit Agreement"). The Loan is evidenced by a Term Note of even date herewith from Mortgagor in favor of Mortgagee in the amount of the Loan ("Note"), which Note shall be paid in full on or before February 16, 2026. Reference to said Note is hereby made to the same extent as if it is set forth in full herein. Capitalized terms not otherwise defined herein shall have the meanings given to them in the Credit Agreement.

NOW, THEREFORE, to secure the payment, performance and observance of all of the covenants and conditions in the Note and Loan Documents and any extensions or renewals thereof, as they may be modified, amended or supplemented at any time and from time to time, and in this Mortgage, and in order to charge the properties, interests and rights hereinafter described with such payment, performance and observance, Mortgagor does hereby execute and deliver this Mortgage, and hereby grants, bargains, sells, mortgages and warrants, encumbers, releases, conveys, assigns, transfers, hypothecates, pledges, sets over, and grants a security interest unto Mortgagee, its successors and assigns forever, all of the estate, title and interest of Mortgagor in and to the following:

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(a) Land. Any and all present estates or interest of Mortgagor in the real property described on **Exhibit A** attached hereto and made a part hereof and incorporated herein by reference, together with all Mortgagor's rights in and to any and all easements, rights-of-way, sidewalks, strips and gores of land, drives, roads, curbs, streets, ways, alleys, passages, passageways, sewer rights, waters, water courses, water rights, minerals (including but not limited to coal), gas and oil rights, all as-extracted collateral (as such term is defined in the Uniform Commercial Code as in effect in the State in which the Land is located), and all power, air, light and other rights, estates, titles, interests, privileges, liberties, servitudes, licenses, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining thereto, or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto (collectively, the "Land");

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

(c) Personal Property. All equipment, chattels, goods, machinery, inventory, furniture, fixtures, building and other materials, supplies and other tangible personal property of every nature now owned or hereafter acquired by Mortgagor and located on or used, intended for use, or usable in the construction, development and operation of the Land and Improvements, if any, together with all accessories thereto, replacements and substitutions therefor and proceeds thereof, including, without limitation, any such property which may be deemed fixtures under the Uniform Commercial Code (collectively, the "Personal Property");

(d) Insurance Proceeds. All proceeds in respect of the Land, Improvements and Personal Property under any insurance policies, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments or settlements made in lieu thereof, for damage to the same;

(e) Condemnation Awards. All awards, including interest thereon, which may heretofore and hereafter be made with respect to the Land, Improvements and Personal Property by reason of condemnation, whether from the exercise of the right of eminent domain including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of the right, or for a change of grade, or for any other injury to or decrease in the value of the same;

(f) Tax Certiorari. All refunds, rebates or credits in connection with reduction in real estate taxes and assessments charged against the Land, Improvements and Personal Property as a result of tax certiorari or any applications or proceedings for reduction;

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(g) Rights. The right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Land, Improvements and Personal Property and to commence any action or proceeding to protect the interest of Mortgagee in the same;

(h) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or any business or activity conducted on the Land and any part thereof, and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Mortgagor thereunder;

(i) Accounts. All reserves, escrows, cash management accounts and deposit accounts maintained by Mortgagor with respect to the foregoing including, without limitation, all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(j) Swap Contracts. All present and future rights, titles and interests, but not obligations, duties or liabilities for any breach, in, under and to all interest protection agreements, ISDA Master Agreements, schedule and confirmation of trade details, interest swap agreements, and/or interest hedging agreements, any and all amounts received by Borrower in connection therewith or to which Borrower is entitled thereunder, and all proceeds of the foregoing including all "accounts", "chattel paper", "general intangibles" and "investment property" (as such terms are defined in the Uniform Commercial Code as from time to time in effect) constituting or relating to the foregoing; and

(k) Other Rights. Any and all other rights of Mortgagor in and to the items set forth in subsections (a) through (j) above.

(Hereinafter the items set forth in subsections (a) and (b) above shall collectively be referred to as the "Mortgaged Premises", and the items set forth in subsections (c) through (k) above shall collectively be referred to as the "Collateral".)

TO HAVE AND TO HOLD the Mortgaged Premises and Collateral, and all other properties hereinabove granted to Mortgagee, its successors and assigns, to its own proper use and benefit forever, subject however to the terms and conditions herein.

PROVIDED, HOWEVER, that these presents are upon the condition that, if Mortgagor shall pay or cause to be paid to Mortgagee the principal, interest and other charges provided in the Note and this Mortgage and the other Loan Documents, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by Mortgagor, and shall keep, perform and observe all the covenants and promises

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in the Note and in this Mortgage expressed and the other Loan Documents to be kept, performed and observed, then the Mortgaged Premises and the Collateral hereby granted, bargained, sold, remised, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, delivered, set over, warranted and confirmed, shall cease, determine and be void but shall otherwise remain in full force and effect.

AND, Mortgagor covenants and agrees with Mortgagee that:

ARTICLE I. PARTICULAR COVENANTS OF MORTGAGOR

1.1 Performance of Note and Mortgage and the other Loan Documents. Mortgagor will perform, observe and comply with all provisions of the Note and this Mortgage and the other Loan Documents secured hereby and will duly and timely pay, without relief from any valuation or appraisal law, to Mortgagee the sum of money expressed in the Note with interest thereon and all other sums required to be paid by Mortgagor pursuant to the provisions of the Note and this Mortgage and the other Loan Documents, all without any deductions or credit for taxes or other similar charges paid by Mortgagor.

1.2 Warranties and Representations. Mortgagor hereby covenants with and represents and warrants to Mortgagee that Mortgagor is indefeasibly seized of the Mortgaged Premises in fee simple; that Mortgagor has full power and lawful right to convey the same as aforesaid; that it shall be lawful for said Mortgagee at all times peaceably and quietly to enter upon, hold, occupy and enjoy the Mortgaged Premises and every part thereof, subject to the rights of Portillo's under the Master Lease; that Mortgagor will make such further assurances to perfect title to the Mortgaged Premises and Mortgagee, as may be reasonably required; that the Mortgaged Premises is not subject to any liens in favor of any private or governmental entity other than Permitted Liens; and that Mortgagor does hereby fully warrant the title to the Mortgaged Premises and every part thereof and will defend the same against the lawful claims of all persons whomsoever, except for those matters set forth on the Title Policy previously delivered to Mortgagee and accepted by Mortgagee.

1.3 Real Estate Taxes, Assessments and Personal Property Taxes.

(a) Upon the occurrence of any Event of Default hereunder, Mortgagor shall upon demand pay to Mortgagee on the day monthly installments of interest or monthly installments of principal and interest are payable under the Note, until the Loan is paid in full, a sum equal to one-twelfth (1/12th) of one hundred five percent (105%) of the yearly real estate taxes and assessments which may attain priority over this Mortgage, all as reasonably estimated initially and from time to time by Mortgagee on the basis of assessments and bills and reasonable estimates thereof ("Funds"); provided, however, that Mortgagor shall not be required to make such payments of funds so long as no "Event of Default" under the Master Lease then exists.

The Funds shall be held by Mortgagee and Mortgagee shall apply the Funds to pay said taxes and assessments as and when they shall be due and payable. No interest

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shall be paid on the Funds. The Funds are pledged as additional security for the sums secured by this Mortgage. If the amount of the Funds held by Mortgagee shall not be sufficient to pay taxes and assessments as they fall due, Mortgagor shall pay to Mortgagee any amount necessary to make up the deficiency within fifteen (15) days from the date notice is mailed by Mortgagee to Mortgagor requesting payment thereof. Upon payment in full of the Loan, all Funds then held by Mortgagee shall be returned to Mortgagor.

(b) Except as provided in (a) above, Mortgagor shall pay or cause to be paid when due according to law, all taxes, assessments and other charges which are now due or may hereafter be imposed or assessed against the Mortgaged Premises and the Collateral. Upon reasonable request, Mortgagor will promptly send to Mortgagee receipts for the payment of all such taxes, assessments and other charges. Upon the failure of Mortgagor to promptly pay such taxes, assessments and other charges, Mortgagee shall have the option to pay and discharge same without notice to Mortgagor. Any sums so expended by Mortgagee shall at once become an indebtedness of Mortgagor and shall be due and payable by Mortgagor with interest as provided in the Note after default, which sums shall thereupon become secured by this Mortgage.

1.4 Other Taxes, Liens and Utility Charges. Mortgagor will pay or cause to be paid promptly, when and as due, all charges for utilities, whether public or private, and will promptly exhibit to Mortgagee, upon reasonable request, receipts for the payment of all taxes, assessments, water and sewer charges, dues, fines and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Mortgaged Premises and the Collateral, or any part thereof, or upon the interest of Mortgagor in the Mortgaged Premises (other than any of the same for which provision has been made in Paragraph 1.3 of this Article I), as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any State, county, municipality or other taxing authority upon Mortgagor in respect of the Mortgaged Premises and the Collateral or any part thereof, or any charge which, if unpaid, would become a lien or charge upon the Mortgaged Premises and the Collateral prior to or equal to the lien of the Mortgage for any amounts secured hereby or which would have priority or equality with the Mortgage in distribution of the proceeds of any foreclosure sale of the Mortgaged Premises and the Collateral or any part thereof.

1.5 Prohibition Against Liens. Mortgagor will not suffer any mechanic's, laborer's, statutory or other liens, or any mortgage or other lien which might or could be prior to, equal to, or subordinate to the lien of this Mortgage to be created or to remain outstanding upon any of the Mortgaged Premises; provided, however, that Mortgagor shall have the right to contest such liens as permitted by the terms of Section 5.13 hereof.

1.6 Insurance. Mortgagor will, at its expense, keep or cause to be kept the Mortgaged Premises and the Collateral owned by it, adequately insured at all times against such risks as are customarily insured against by entities engaged in similar businesses. Without limiting the foregoing, Mortgagor will (a) keep or cause to be kept the Mortgaged Premises and the Collateral fully insured against fire, theft and extended coverage risks (all hazards included

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within the term "all risks coverage"), and if the Mortgaged Premises are determined to be in a flood plain or flood prone area, flood insurance, in an amount sufficient to prevent Mortgagor or Mortgagee from becoming a co-insurer of any partial loss under applicable insurance policies and in any event not less than one hundred percent (100%) of the full replacement value (actual replacement value without deduction for physical depreciation, but exclusive of the cost of excavation, footings, foundation and underground utilities) thereof; provided, however, in no event less than the then outstanding principal amount of the Note; (b) maintain or cause to be maintained all such workers' compensation or similar insurance as may be required by law, (c) maintain rental interruption insurance coverage equal to or greater than six (6) months of income from the Mortgaged Premises and Collateral; (d) maintain or cause to be maintained personal property insurance in an amount as Mortgagee shall reasonably request; and (e) maintain or cause to be maintained general public liability insurance in respect of the Mortgaged Premises and the Collateral against claims for personal and bodily injury, death or property damage occurring, in or about the Mortgaged Premises and the Collateral and liability insurance covering the operations of Mortgagor conducted on or about the Mortgaged Premises and the Collateral in an amount as is reasonably acceptable to Mortgagee. All policies of insurance shall be placed with insurance companies satisfactory to Mortgagee and shall have attached thereto the standard form of Mortgagee clause, without contribution, in favor of Mortgagee and be delivered to and be held by Mortgagee, which policy shall provide that no cancellation, modification, termination or lapse thereof shall be effective until at least thirty (30) days after receipt by Mortgagee of written notice thereof. This Mortgage shall operate as an assignment to Mortgagee of said policies, whether delivered or not. Mortgagor shall provide evidence of fully paid insurance policies at least fifteen (15) days prior to the expiration date of any insurance policy(ies). Upon the failure of Mortgagor to provide the aforesaid insurance, Mortgagee shall have the option (but not the duty) to procure and maintain such insurance or a mortgagee interest policy without notice to Mortgagor. Any sums so expended by Mortgagee shall at once become indebtedness owing from Mortgagor to Mortgagee and shall immediately become due and payable by Mortgagor with interest thereon, to the extent legally enforceable. If Mortgagee acquires title to the Mortgaged Premises by foreclosure proceedings or otherwise, any unearned premiums on any hazard insurance covering the Mortgaged Premises are hereby assigned to and shall belong to Mortgagee. If at any time during the term of this Mortgage, any insurance policies shall be cancelled and returned premiums available, these returned premiums shall be retained by Mortgagee to the extent required to reimburse Mortgagee for any sums advanced by Mortgagee to purchase insurance required by this Section and the balance may be used by Mortgagee to satisfy any other defaults by Mortgagor hereunder. Any rights of Mortgagee to any insurance proceeds shall in no way be affected or impaired by reason of the fact that Mortgagee may have instituted foreclosure proceedings hereunder. Upon an Event of Default hereunder and demand by Mortgagee, Mortgagor shall pay to Mortgagee an amount each month equal to one-twelfth (1/12th) of the annual premium due for all such insurance; provided, however, that Mortgagor shall not be required to make such payments if no "Event of Default" has occurred under the Master Lease. Such payment shall be added to the Funds (as provided in Section 1.3 hereof) and be applied to pay such insurance premiums when they shall become due and payable.

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1.7 Distribution of Insurance Proceeds.

(a) Total Loss. In the event of any total loss (75% or more), of the full replacement value of the then Mortgaged Premises and Collateral not previously released from this Mortgage, Mortgagor shall give immediate written notice to Mortgagee, and Mortgagee may, but is not obligated to, make proof of loss if not made promptly by Mortgagor. Any proceeds received from any policy of insurance shall be due Mortgagee and applied against the outstanding balance of principal, interest and other charges due under the Note, the other Loan Documents and this Mortgage. Should said proceeds equal or exceed the Required Impairment Payment for the Mortgaged Premises, Mortgagee shall deliver to Mortgagor an instrument which if duly recorded would operate to release the Mortgaged Premises from the lien of this Mortgage. Should said proceeds be less than the Required Impairment Payment, any deficiency shall be paid to Mortgagee within sixty (60) days of demand, upon which payment Mortgagee shall deliver to Mortgagor an instrument which if duly recorded would operate to release the Mortgaged Premises from the lien of this Mortgage. Each insurance carrier is hereby authorized and directed to make payment for such loss to Mortgagor and Mortgagee jointly. Mortgagee's right to payment of insurance proceeds shall exist whether or not any such loss results in any impairment to the security of Mortgagee.

(b) Partial Loss. In the event of any partial loss under any of said policies of insurance covering the Mortgaged Premises and the Collateral where such loss is less than 75% of the full replacement value of the then Mortgaged Premises and Collateral not previously released from this Mortgage, Mortgagor shall give immediate written notice to Mortgagee, and Mortgagee may, but is not obligated to, make proof of loss if not made promptly by Mortgagor. Any proceeds received from any policy of insurance shall be paid to Mortgagee and applied against the outstanding balance of principal, interest and other charges due under the Note, the other Loan Documents and this Mortgage, provided, however, if (i) Mortgagor desires to restore the Mortgaged Premises and Collateral to its prior good condition, (ii) no Event of Default then exists, and (iii) any funds in excess of insurance proceeds necessary to complete the restoration work in accordance with plans and specifications and budgets as approved by Mortgagee shall have been deposited by Mortgagor with Mortgagee, then the insurance proceeds shall be held by Mortgagee for restoration of the Mortgaged Premises and the Collateral. Mortgagee shall disburse so much of the proceeds to Mortgagor as restoration progresses, equal to the cost of said restoration, and subject to reasonable conditions, including the right of Mortgagee to withhold up to ten percent (10%) of said amount until completion, and the expiration of the period within which mechanic's and materialmen's liens may be filed or until the receipt of satisfactory evidence that no liens exist. Should the insurance proceeds be less than the sum required to complete said restoration, Mortgagor shall deposit the difference with Mortgagee, and its failure to do so shall constitute default hereunder. Upon payment of such sum to Mortgagee, the same shall be held by Mortgagee in a mutually acceptable interest-bearing account until disbursement. Should said proceeds, including the interest payable thereon, exceed the cost of completing said restoration, any balance remaining shall be repaid to Mortgagor. Mortgagor shall pay to Mortgagee any reasonable expenses incurred by Mortgagee in making such

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disbursements and reasonable building inspections. Mortgagor agrees to execute such further assignments of such proceeds and rights of action as Mortgagee may require.

(c) Applicable to Partial and Total Loss. In the event of either a partial or total loss, as described above, all proceeds and rights of action are hereby assigned to Mortgagee. At its option, in its own name, Mortgagee shall be entitled to commence, appear in and prosecute any action or proceedings or to make any compromise or settlement in connection with any such loss. The payment to Mortgagee of such insurance proceeds shall not cure or waive any default or notice of default hereunder. Notwithstanding such total or partial loss, all payments under the Note and the other Loan Documents shall be made without reduction, modification or interruption and all applicable terms and conditions of this Mortgage shall be applicable to Mortgagor without modification or interruption.

(d) Master Lease. Notwithstanding anything to the contrary contained in this Section 1.7, so long as (x) no "Event of Default" has occurred under the Master Lease, and (y) Portillo's does not exercise its right under the Master Lease, if any, to terminate the Master Lease with respect to the Mortgaged Premises following an event of casualty, then in the event of a loss, if (i) Portillo's is required under the Master Lease to restore the Mortgaged Premises and Collateral to its prior good condition, (ii) no Event of Default then exists, and (iii) any funds in excess of insurance proceeds necessary to complete the restoration work in accordance with plans and specifications and budgets as approved by Mortgagee shall have been or caused to have been deposited by Mortgagor with Mortgagee, then the insurance proceeds shall be held by Mortgagee for restoration of the Mortgaged Premises and the Collateral. Mortgagee shall disburse so much of the proceeds to Mortgagor as restoration progresses, equal to the cost of said restoration, and subject to reasonable conditions, including the right of Mortgagee to withhold up to ten percent (10%) of said amount until completion, and the expiration of the period within which mechanic's and materialmen's liens may be filed or until the receipt of satisfactory evidence that no liens exist. Should the insurance proceeds be less than the sum required to complete said restoration, Mortgagor shall deposit or cause Portillo's to deposit the difference with Mortgagee, and its failure to do so shall constitute an Event of Default. Upon payment of such sum to Mortgagee, the same shall be held by Mortgagee in a non-interest bearing account until disbursement. Should said proceeds exceed the cost of completing said restoration, any balance remaining shall be repaid to Mortgagor or Portillo's, as the case may be. Mortgagor shall pay or cause to be paid to Mortgagee any reasonable expenses incurred by Mortgagee in making such disbursements and reasonable building inspections. Mortgagor agrees to execute such further assignments of such proceeds and rights of action as Mortgagee may require. If Portillo's exercises its right under the Master Lease to terminate the Master Lease with respect to the Mortgaged Premises following an event of casualty, such termination shall be treated as a total loss under Section 1.7(a) above.

(e) Minor Loss. Notwithstanding anything to the contrary contained herein, if the net insurance proceeds payable on account of an event of casualty are less than Five Hundred Thousand Dollars (\$500,000) and no "Event of Default" then exists under the

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Master Lease, Portillo's shall have the right to receive such proceeds directly, to be used solely to pay the cost of repair and restoration of the Mortgaged Premises, and Portillo's is hereby authorized to adjust, collect and compromise, in its reasonable business discretion, the proceeds of such event of casualty.

1.8 Good Condition and Repair. Mortgagor shall keep or cause to be kept the Mortgaged Premises and the Collateral in good condition and repair and shall comply with all laws, ordinances, and regulations of all public authorities relating to the Mortgaged Premises and the Collateral, comply with all easements, declarations, covenants and any other private agreements imposing duties or obligations on owners or occupants of the Mortgaged Premises, and shall not suffer any waste to be committed thereon nor remove or demolish any building. Mortgagor shall permit Mortgagee to enter upon the Mortgaged Premises and inspect the Mortgaged Premises and Collateral at all reasonable hours and without prior notice, subject to the rights of Portillo's under the Master Lease. Mortgagor shall comply with the provisions of any lease if this Mortgage is on a leasehold. Mortgagor shall not cause or permit any improvements to be materially altered or changed without the prior written consent of Mortgagee to the proposed action, as well as Mortgagee's prior written consent to the plans and specifications relating thereto, provided, however, that Portillo's may make such alterations or changes without the consent of Mortgagee if such alterations or changes are permitted to be made by Portillo's under the Master Lease without the consent of Mortgagor. Mortgagor shall not consent to any subdivision of the Mortgaged Premises or any zoning change or variance affecting the Mortgaged Premises without the prior written consent of Mortgagee.

1.9 Condemnation. In the event any of the Mortgaged Premises or the Collateral, or any part thereof, shall be damaged or taken by reason of any public improvement or condemnation proceedings, Mortgagor agrees that such proceeds or awards shall be payable to Mortgagee to be applied against the outstanding balance of principal, interest and other charges due under the Note, the other Loan Documents and this Mortgage. Should said proceeds exceed the balance due on the Note and the other Loan Documents, any such excess shall be repaid to Mortgagor. All such proceeds and rights of action are hereby assigned to Mortgagee, and Mortgagee shall be entitled, along with Mortgagor, to commence, appear in and prosecute any action or proceedings or to make any compromise or settlement in connection with any such taking or damage. Mortgagor agrees to execute such further assignments or any such proceeds and rights of action as Mortgagee may require. Notwithstanding the provisions of this Section 1.9 to the contrary, if any condemnation or taking of less than the entire Mortgaged Premises occurs and provided that no Event of Default and no event or circumstance which with the passage of time, the giving of notice, or both would constitute an Event of Default then exists, and if such partial condemnation, in the reasonable discretion of Mortgagee, has no material adverse effect on the operation or value of the Mortgaged Premises, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by Mortgagor.

1.10 No Acquisition or Disposition of Personal Property. Mortgagor will not make, suffer or permit, without the prior written consent of Mortgagee, any sale, purchase, conditional sale, transfer, lease or agreement under which title is reserved in the vendor, of any fixtures,

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apparatus, machinery, equipment or personal property comprising the Collateral, except in the ordinary course of business and if replaced with like-kind Collateral.

1.11 Protection of Mortgaged Premises and Collateral. Mortgagor will from time to time execute and deliver all such supplements and amendments hereto (including Financing Statements and Continuation Statements) and other instruments, and will take such other action, as Mortgagee reasonably requests and reasonably deems necessary or advisable to (a) grant to Mortgagee all of the Mortgaged Premises and the Collateral, as security; (b) maintain or preserve the lien of the Mortgage or carry out more effectively the purposes hereof; and (c) preserve and defend title to the Mortgaged Premises and the Collateral and the rights of Mortgagee therein against the claims of all persons and parties.

1.12 Affirmative Covenants of Mortgagor. Mortgagor covenants and agrees that during the term of this Mortgage, and until all of the principal amount and interest due on the Note, the other Loan Documents and all other amounts due hereunder shall have been duly paid in full, and except as specifically hereinafter provided to the contrary, it will, unless Mortgagee shall otherwise consent in writing:

(a) Leases. Timely perform and observe all terms, covenants, conditions and agreements contained in any lease or leases now or hereafter affecting the Mortgaged Premises ("Leases") or any portion thereof which are required to be observed and performed by Mortgagor.

(b) Expenses. Pay or reimburse Mortgagee, upon demand therefor, for all reasonable attorneys' fees, costs and expenses incurred by Mortgagee in any suit, action, legal proceeding or dispute of any kind in which Mortgagee is made a party or appears as a party plaintiff or defendant, affecting the indebtedness secured hereby, this Mortgage or the interest created herein, or the Mortgaged Premises, including, but not limited to any action to protect the security hereof; and any such amount paid by Mortgagee shall be added to the indebtedness secured by the lien of the Mortgage.

(c) Books, Records, Accounts and Reports. Keep and maintain proper and adequate books, records and accounts reflecting all items of income and expense, including all supporting facts relating to the operation of the Mortgaged Premises and the Collateral. With respect to the Mortgaged Premises and the Collateral, Mortgagor will, upon Mortgagee's request, from time to time furnish to Mortgagee operating statements, rent rolls and reports in form and content reasonably requested by Mortgagee. Mortgagor shall furnish Mortgagee with such other financial information concerning it as Mortgagee may reasonably request.

(d) Additional Indebtedness. Mortgagor agrees to pay or reimburse Mortgagee, upon demand therefor, for any and all losses, damages, costs, expenses, fees, duties, taxes (except income or franchise taxes), penalties, assessments of other charges ("Liabilities") at any time suffered by, imposed upon, assessed or levied against the Mortgaged Premises or Mortgagee by any governmental authority or agency relating to, arising from or in connection with the execution and delivery of the Note, Loan

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Documents and the recording of this Mortgage, including, but not limited to, liabilities arising from any applicable law or statute relating to the making of the Loan, the perfection of the security documents or the enforcement thereof. Any such Liability so incurred or paid by Mortgagee shall constitute an additional indebtedness secured by this Mortgage. Mortgagor shall pay for the cost of recording any release or partial release(s) of this Mortgage.

(e) Transfer and Encumbrance. Mortgagor shall not make, create or suffer to be made or created, any sale, transfer, conveyance, lease or assignment of the Mortgaged Premises, or any interest therein, except as expressly permitted under the Credit Agreement. Any change whatsoever in the legal or beneficial ownership of Mortgagor which changes the identity of the person or persons or entity having direct or indirect controlling interest in Mortgagor shall not be made, created or suffered, except as expressly permitted under the Loan Agreement.

1.13 Compliance with Environmental Laws. Concurrently herewith Mortgagor and Guarantors have executed and delivered to the Mortgagee that certain Hazardous Substance Indemnity Agreement dated as of the date hereof (the "Indemnity") pursuant to which Mortgagor and Guarantors have indemnified Mortgagee for environmental matters concerning the Mortgaged Premises, as more particularly described therein. The provisions of the Indemnity are hereby incorporated herein and this Mortgage secures the obligations of Mortgagor thereunder.

1.14 Intentionally Deleted.

1.15 Wetlands. Mortgagor hereby covenants and represents that, (a) to the best of Mortgagor's knowledge, it is in compliance with all federal laws relating to "Wetlands" as defined in 33 C.F.R. 328.3, as hereinafter amended, and in any comparable state and/or local law, statute or ordinance, rule or regulation pertaining to such Wetlands, and (b) Mortgagor shall not perform or cause to be performed any excavation or fill activity or other acts which would in any way destroy, eliminate, alter, obstruct, interfere with or otherwise affect any Wetlands.

1.16 ADA. Mortgagor hereby covenants and represents that (a) to the best of its knowledge, it is in compliance with the Americans With Disabilities Act ("ADA") and all rules and regulations pertaining thereto, and (b) Mortgagor shall at all times hereafter continue to comply with all requirements of ADA.

1.17 Prohibited Activities. Mortgagor covenants and represents that, (a) to the best of Mortgagor's knowledge, the Mortgaged Premises is not being used or operated in connection with activities that are prohibited under federal or state law; (b) Mortgagor will not, and will cause all tenants or occupiers of the Mortgaged Premises not to use or operate the Mortgaged Premises (or any portion thereof) in connection with activities that are prohibited under federal or state law; and (c) all future Leases and any amendments to existing Leases will expressly prohibit any use of the Mortgaged Premises (or any portion thereof) in connection with activities that are prohibited under federal or state law.

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Any breach of these representations and agreements shall constitute an event of default hereunder, subject to any applicable notice and cure periods which may be provided in the Credit Agreement.

ARTICLE II. SECURITY INTEREST IN COLLATERAL

2.1 Security Agreement and Fixture Filing. Mortgagor and Mortgagee do hereby agree and declare that this Mortgage shall constitute a security agreement encumbering each and every item of the Collateral in compliance with the provision of the applicable Uniform Commercial Code. Certain of the Collateral is or may become "fixtures," as that term is defined in the Uniform Commercial Code, on the Land, and this Mortgage, upon being filed for record in the real estate records of the county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Collateral that is or may become fixtures. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are set forth on this first (1st) page of this Mortgage. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Mortgaged Premises are located. The Mortgagor is the record owner of the Mortgaged Premises. The remedies for any violation of the covenants, terms and conditions of the Note, the other Loan Documents and this Mortgage shall be (i) as prescribed in this Mortgage; (ii) as prescribed by general law; or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in the said Uniform Commercial Code, all at Mortgagee's sole election.

2.2 No Liens. Except for Permitted Liens, Mortgagor is the owner of the Collateral free from any prior liens, security interest or encumbrance and will defend the Collateral against all claims and demands of any and all persons at any time claiming the same or any interest therein.

2.3 No Financing Statements. No financing statement covering the Collateral is on file at any public office except in favor of Mortgagee.

2.4 Authorization. Mortgagor authorizes Mortgagee to file one or more financing statements describing the collateral pursuant to the applicable Uniform Commercial Code, and in the sole discretion of, and at the request of, Mortgagee, Mortgagor will join with Mortgagee in executing such financing statements. Mortgagor shall pay the cost of filing in all public offices wherever filing is deemed necessary or appropriate by Mortgagee. A photocopy of this Mortgage may be filed as a financing statement at the election of Mortgagee.

ARTICLE III. EVENTS OF DEFAULT

3.1 Events of Default. The term "Event of Default" as used in this Mortgage shall have the meaning assigned in the Credit Agreement.

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ARTICLE IV. REMEDIES

4.1 Rights of Mortgagee after Default. Upon the occurrence of an Event of Default, Mortgagee shall: have the option to declare the Note, the other Loan Documents and all sums secured hereby due and payable, and further may proceed immediately to foreclose this Mortgage and exercise Mortgagee's rights under this Mortgage, the Note, the other Loan Documents or any other controlling document; have all the rights and remedies of a secured party under the Uniform Commercial Code of those states governing disposition of the Collateral in the Event of a Default, including, but not limited to, the right to sell the Collateral at public or private sale, and the right to be a purchaser at any such sale; demand, elect and receive all the rents and profits as then or may thereafter be due and owing to Mortgagor in connection with the Mortgaged Premises and the Collateral, giving notice of its intention to collect and receive such rents to such tenants, occupiers or lessees of the Mortgaged Premises, and applying the same upon the amount due upon the Note and the other Loan Documents; and in such event, Mortgagor shall be deemed to have assigned and transferred such rents and profits to Mortgagee as additional security for the performance of the covenants of this Mortgage until all indebtedness secured hereby has been fully paid and satisfied; have all other remedies available at law or in equity; and Mortgagee shall have the right: to enter upon and take possession of the Mortgaged Premises and the Collateral and to operate same for and on behalf of Mortgagor; to collect all of the rent, income, profits or revenues generated therefrom; and to expend such sums of money which it may deem necessary for the maintenance, preservation and operation of the Mortgaged Premises, including expenditures for improvements, alterations and repairs, including those of a capital nature.

Any sums so expended by Mortgagee shall at once become additional indebtedness owing from Mortgagor to Mortgagee and shall be immediately due and payable by Mortgagor, with interest thereon to the extent legally enforceable at the Default Rate, which sum so advanced shall be added to and become a part of the indebtedness secured by this Mortgage.

4.2 Distribution of Sums Received by Mortgagee. Upon enforcement of this Mortgage upon the occurrence of an Event of Default, all sums received from time to time by Mortgagee shall be applied as follows:

First: To the payment of all reasonable costs and expenses of Mortgagee (including fees and expenses of its agents and counsel) incurred or accrued in connection with (a) the operation, maintenance or repair of the Mortgaged Premises and the Collateral and any and all businesses operated thereon; (b) any proceedings brought by Mortgagee; and (c) any sale (public or private) or other disposition of the Mortgaged Premises and the Collateral.

Second: To the payment of all amounts as provided for in the Note and this Mortgage, and the other Loan Documents, whether for principal, interest or otherwise, in whatever order Mortgagee, exercising its sole discretion, may elect.

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Third: To the payment of any surplus to Mortgagor or any other person legally entitled thereto.

4.3 Rights Cumulative. All rights and remedies from time to time conferred upon or reserved to Mortgagee are cumulative, and none is intended to be exclusive of any other. No delay or omission in insisting upon the strict observance or performance of any provision of this Mortgage, or to exercise any right or remedy, shall be construed as a waiver or relinquishment of such provision, nor shall it impair such right or remedy. Every right and remedy may be exercised from time to time and as often as deemed expedient.

4.4 Appointment of Receiver. If an Event of Default shall occur, then with or without the filing of a bill in equity or other commencement of judicial proceedings to enforce the rights of Mortgagee, Mortgagee, to the extent permitted by law, and without prior notice to Mortgagor, shall be entitled as a matter of right to the appointment of a receiver or receivers of the Mortgaged Premises and the Collateral, pending such proceedings, with such powers as are conferred upon Mortgagee herein and as shall be conferred by the court making such appointment; but notwithstanding the appointment of any receiver, trustee, or other custodian, Mortgagee shall be entitled to the possession and control of any cash, or other instruments at the time held by, or payable or deliverable under the terms of this Mortgage to Mortgagee.

4.5 Suits to Protect the Mortgaged Premises and the Collateral. Mortgagee shall have power to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Premises by any acts which may be unlawful or a violation of the Mortgage, and to preserve or protect its interest in the Mortgaged Premises and in the income, revenues, rents and profits arising therefrom.

4.6 Mortgagee's Power of Enforcement. If an Event of Default shall have occurred, Mortgagee may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or by any other appropriate proceeding or remedy (a) to foreclose this Mortgage and to sell, as an entirety or in separate lots, units or parcels, the Mortgaged Premises and the Collateral, under the judgment or decree of a court or courts of competent jurisdiction; and (b) to pursue any other remedy available to it, all as Mortgagee shall deem most effectual for such purposes. Mortgagee shall take action either by such proceedings or by the exercise of its powers with respect to entry or taking possession, as Mortgagee may determine.

4.7 Application of Indebtedness Towards Purchase Price. Upon any foreclosure sale, pursuant to judicial proceedings, Mortgagee may bid for and purchase the Mortgaged Premises and Collateral, and upon compliance with the terms of sale, may hold, retain, possess and dispose of such property at its own absolute right without further accountability. Any such purchase shall permit Mortgagee to apply to the purchase price any portion of or all sums due to Mortgagee under the Note, the other Loan Documents and this Mortgage in lieu of cash, to the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon.

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4.8 No Waiver of One Default to Affect Another, Etc. No waiver of any default hereunder shall extend to or shall affect any subsequent or other then existing default or shall impair any rights, powers or remedies consequent thereon.

If Mortgagee (a) grants forbearance or any extension of time for the payment of any sums secured hereby; (b) takes other or additional security for the payment thereof; (c) waives or does not exercise any right granted herein or in the Note; (d) releases any part of the Mortgaged Premises from the lien of the Mortgage or otherwise changes any of the terms of the Note or Mortgage or any of the other Loan Documents; (e) consents to the filing of any map, plat or replat thereof; (f) consents to the granting of any easement thereon; or (g) makes or consents to any agreement subordinating to the lien or charge hereof, then and in each such case such act or omission shall not release, discharge, modify, change, or affect the original liability under the Note, Mortgage, the other Loan Documents or otherwise of Mortgagor or any subsequent purchaser of the Mortgaged Premises or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude Mortgagee from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by Mortgagee shall the lien of this Mortgage be altered thereby.

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

4.10 Waiver of Redemption. Mortgagor acknowledges that the Mortgaged Premises does not constitute agricultural real estate, as defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. Pursuant to Section 15-1601(b) of the Act, Mortgagor hereby waives any and all right to redemption.

ARTICLE V. MISCELLANEOUS PROVISIONS

5.1 Successors and Assigns Included in Parties. Whenever in this Mortgage one of the parties hereto is named or referred to, the successors and assigns of such party shall be included, and all covenants and agreements contained in this Mortgage by or on behalf of Mortgagor or by or on behalf of Mortgagee shall include their respective successors and assigns, whether so expressed or not.

5.2 Invalid Provisions to Affect No Others. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage or in the Note or in the other Loan Documents shall be invalid, illegal or unenforceable in any respect, the validity of the remaining

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covenants, agreements, terms or provisions contained herein and in the Note and in the other Loan Documents shall be in no way affected, prejudiced or disturbed thereby.

5.3 Notices. Notices, statements and other communications to be given under the terms of this Mortgage shall be in writing and delivered in accordance with the terms of the Loan Agreement.

5.4 Protective Advances. Notwithstanding anything contained herein to the contrary, in addition to any other debt or obligation secured hereby, this Mortgage secures, to the fullest extent and with the highest priority contemplated by the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 (the "Act"), unpaid balances of advances made, with respect to the Mortgaged Premises, for the payment of taxes, assessments, insurance premiums, or costs incurred for the protection of the Mortgaged Premises, and other costs which Mortgagee is authorized by this Mortgage or any other Loan Document to pay on Mortgagor's behalf, and interest on such unpaid balances at a Default Interest Rate as provided in the Note. All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(a) All advances by Mortgagee in accordance with the terms of this Mortgage to: (1) preserve or maintain, repair, restore or rebuild the improvements upon the mortgaged real estate; (2) preserve the lien of this Mortgage or the priority thereof; or (3) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(b) Payments by Mortgagee of: (i) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Mortgaged Premises or any part thereof; (iii) other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(c) Advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) Attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Sections 15-1504(d)(2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of this Mortgage or arising from the interest of Mortgagee hereunder; or (iii) in the presentation for the commencement or defense of any such foreclosure or other action related to the Mortgage or the mortgaged real estate;

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(e) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(f) Expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act;

(g) Expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if the Mortgaged Premises or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (ii) if Mortgagee's interest in the Mortgaged Premises is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Mortgagee takes possession of the Mortgaged Premises imposed by Subsection (c)(1) of Section 15-1704 of the Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments required or deemed by Mortgagee to be for the benefit of the Mortgaged Premises or required to be made by the owner of the mortgaged real estate under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Premises; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Premises is a member in any way affecting the Mortgaged Premises; (vii) if the loan secured hereby is a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (viii) pursuant to any lease or other agreement for occupancy of the Mortgaged Premises for amounts required to be paid by Mortgagor; and (ix) if this Mortgage is insured payments of FHA or private mortgage insurance required to keep insurance in force.

All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Note.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(1) of Section 15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

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- (a) Determination of the amount of indebtedness secured by this Mortgage at any time;
- (b) The indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (c) If right of redemption has not been waived by Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 15-1603 of the Act;
- (d) Determination of the amount deductible from sale proceeds pursuant to Section 15-1512 of the Act;
- (e) Application of income in the hands of any receiver or Mortgagee in possession; and
- (f) Computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 15-1508 and 15-1511 of the Act.

5.5 Business Loan Representation. Mortgagor represents and warrants to Mortgagee that the Loan evidenced by the Note is a business loan transacted solely for the purpose of carrying on the business of Mortgagor and not a consumer transaction. The proceeds of the Note will be used only for the purposes specified in 815 ILCS 205/4 and the principal obligation secured by this Mortgage constitutes a "business loan" within the definition and purview of such section.

5.6 No Agricultural or Residential Use. No part of the Mortgaged Premises is being used for agricultural purposes or for a personal residence by Mortgagor or any partner of Mortgagor. The Mortgaged Premises does not constitute agricultural real estate, as defined in Section 15-1201 of the Act, nor does the Mortgaged Premises constitute residential real estate, as defined in Section 15-1219 of the Act.

5.7 Property Management Agreement. Any property management agreement between Mortgagor or any agent of Mortgagor and a property manager for or relating to all or a part of the Mortgaged Premises, whether now in effect or entered into hereafter, shall contain a subordination provision whereby the property manager forever and unconditionally subordinates to the lien of this Mortgage and the Loan Documents any and all mechanics' lien rights and claims that it or anyone claiming through or under it may have at any time pursuant to any statute or law (including, without limitation, 770 ILCS 60/0.01).

5.8 Maximum Indebtedness. The total amount of indebtedness secured hereby shall not exceed \$100,000,000.00 outstanding at any time, plus interest thereon.

5.9 Intentionally Deleted.

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5.10 Governing Law. This Mortgage and the rights and obligations of the parties hereunder shall in all respects be governed by, and construed and enforced in accordance with, the laws of the state where the Collateral is located (without giving effect to principles of conflicts of law).

5.11 **WAIVER OF JURY TRIAL:** MORTGAGOR AND MORTGAGEE HEREBY JOINTLY AND SEVERALLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING RELATING TO THIS INSTRUMENT AND TO ANY OF THE LOAN DOCUMENTS, THE OBLIGATIONS HEREUNDER OR THEREUNDER, ANY COLLATERAL SECURING THE OBLIGATIONS, OR ANY TRANSACTION ARISING THEREFROM OR CONNECTED THERETO. MORTGAGOR AND MORTGAGEE EACH REPRESENTS TO THE OTHER THAT THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY GIVEN.

5.12 Collateral Protection Act. The following notice is being provided to Mortgagor pursuant to the Collateral Protection Act (815 ILCS 180/1 et seq.) to allow Mortgagee to place collateral protection insurance:

Unless Mortgagor provides Mortgagee with evidence of the insurance required by this Mortgage, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interest in the Collateral or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Mortgagor's interests. The coverage Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Collateral or any other collateral for the indebtedness secured hereby. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required under by this Mortgage or any other Loan Document. If Mortgagee purchases insurance for the Collateral or any other collateral for the indebtedness secured hereby, Mortgagor shall be responsible for the costs of that insurance, including interest and any other charges that Mortgagee may lawfully impose in connection with the placement of the insurance. The costs of the insurance may be added to the indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

5.13 Contests. Notwithstanding anything to the contrary herein contained, Mortgagor will have the right to contest by appropriate legal proceedings diligently prosecuted any taxes imposed or assessed upon the Mortgaged Premises or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Mortgaged Premises (each, a "Contested Lien"), and no Contested Lien will constitute an Event of Default hereunder, if, but only if:

(a) Mortgagor must forthwith give notice of any Contested Lien to Mortgagee at the time the same is asserted;

(b) Mortgagor must either pay under protest or deposit with Mortgagee the full amount (the "Lien Amount") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period

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of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;

(c) Mortgagor must diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Mortgaged Premises, and must permit Mortgagee to be represented in any such contest and must pay all expenses incurred, in so doing, including fees and expenses of Mortgagee's counsel (all of which will constitute so much additional indebtedness bearing interest at the Default Rate until paid, and payable upon demand); and

(d) Mortgagor must pay each such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien is determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the opinion of Mortgagee, and notwithstanding any such contest, the Mortgaged Premises are in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor fails so to do, Mortgagee may, but will not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing will be so much additional indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that Mortgagee may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

[Signature Page Follows.]

MORTGAGE SECURITY AGREEMENT AND FIXTURE FILING**Exhibit A****Legal Description****1500 BUSSE HIGHWAY, ELK GROVE VILLAGE, ILLINOIS 60007****08-34-203-016-0000****08-34-203-017-0000**

PARCEL 1: LOT 290 IN CENTEX INDUSTRIAL PARK UNIT NUMBER 170, BEING A SUBDIVISION IN THE NORTH 1/2 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 18, 1972 AS DOCUMENT NUMBER 22020085, IN COOK COUNTY, ILLINOIS.

PARCEL 2: THE SOUTH 10 FEET OF LOT 346 AND ALL OF LOT 347 IN CENTEX INDUSTRIAL PARK UNIT 212, BEING A SUBDIVISION IN THE NORTH 1/2 OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 2, 1977 AS DOCUMENT NUMBER 24089602, IN COOK COUNTY, ILLINOIS.

PARCEL 3: LOT "A" IN CENTEX INDUSTRIAL PARK UNIT 170, BEING A SUBDIVISION IN THE NORTH HALF OF SECTION 34, TOWNSHIP 41 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 18, 1972 AS DOCUMENT NUMBER 22020085, IN COOK COUNTY, ILLINOIS.