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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption

40020367 (20F4)



1616716071

Doc#: 1616716071 **Fee:** \$78.00

RHSP Fee: \$9.00 RPRF Fee: \$1.00

Karen A. Yarbrough

Cook County Recorder of Deeds

Date: 06/15/2016 03:54 PM Pg: 1 of 21

Report Mortgage Fraud
800-532-8785

The property identified as: **PIN:** 17-16-204-005-0000

Address:

Street: 29 South LaSalle

Street line 2:

City: Chicago

State: IL

ZIP Code: 60603

Lender: Delphi CRE Funding LLC

Borrower: Millennium on LaSalle, LLC

Loan / Mortgage Amount: \$51,668,990.00

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

Certificate number: 8F50DCED-8C43-4E45-8B48-2094552EA33B

Execution date: 6/14/2016

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This instrument was prepared by
and, after recording, return to:

Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Attention: Marla R. Bell, Esq.

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

From

MILLENNIUM ON LASALLE LLC,
an Illinois limited liability company,
formerly known as Millenium on LaSalle LLC, as mortgagor

To

DELPHI CRE FUNDING LLC,
a Delaware limited liability company, as mortgagee

Date: June 14, 2016

County: Cook

P.I.N.: 17-16-204-005-0000

Commonly Known As: 29 S. LaSalle Street,
Chicago, Illinois

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

THIS LEASEHOLD MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, AND FIXTURE FILING (this "**Security Instrument**") is made as of this ___ day of June, 2016, by MILLENNIUM ON LASALLE LLC, an Illinois limited liability company, having its principal place of business at 21500 Biscayne Boulevard, Suite 402, Aventura, Florida 33180 ("**Mortgagor**"), to DELPHI CRE FUNDING LLC, a Delaware limited liability company (together with its successors and/or assigns, "**Mortgagee**").

RECITALS:

WHEREAS, pursuant to that certain Loan Agreement dated of even date herewith between Mortgagor and Mortgagee, Mortgagee has agreed to make a loan to Mortgagor in the original principal amount of up to FIFTY-ONE MILLION SIX HUNDRED SIXTY-EIGHT THOUSAND NINE HUNDRED NINETY AND 00/100THS DOLLARS (\$51,668,990.00) ("**Loan**") bearing interest at a variable rate and other charges as provided therein (as the same may be amended, the "**Loan Agreement**"); capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement; and

WHEREAS, Mortgagor desires to secure the payment of the Debt and the performance of all of its obligations under four promissory notes made as of the date hereof by Mortgagor to Mortgagee, which have the latest maturity date of July 8, 2021 (individually and collectively, a "**Note**"), the Loan Agreement and the other Loan Documents;

WHEREAS, Mortgagee is not willing to make the Loan to Mortgagor unless Mortgagor executes and delivers this Security Instrument.

NOW, THEREFORE, as an inducement to Mortgagee to make the Loan to Mortgagor, and for other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, Mortgagor hereby agrees as follows:

1. Grant of Security. Mortgagor does hereby irrevocably mortgage, pledge, and collaterally assign, transfer and convey and warrants to Mortgagee, and its successors and assigns, all of its right, title, and interest in and to the property, rights, interests and estates described on Schedule 1 attached hereto, whether now owned, or hereafter acquired (collectively, the "**Property**"), to secure the payment to Mortgagee of the Loan and the Debt (including, without limitation, all additional advances of the Loan made by Mortgagee from time to time under any of the Loan Documents) in the manner provided for in the Loan Agreement and performance of the other Obligations of Mortgagor.

2. Assignment of Leases and Rents. Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor's right, title and interest in and to all current and future Leases and Rents; it being intended by Mortgagor that this assignment constitutes a present, absolute and unconditional assignment and not an assignment for additional security only. Nevertheless, subject to the terms of the Loan Agreement, the Assignment of Leases and Section 6(h) of this Security Instrument, Mortgagee grants to Mortgagor a revocable license (which shall be automatically revoked during the continuance of an Event of Default) to collect, receive, use and enjoy the Rents and otherwise deal with the Leases in accordance with the terms and conditions of the Loan Agreement.

3. Security Agreement. This Security Instrument is a real property mortgage, a "security agreement," a "financing statement" and a "fixture filing" within the meaning of the Uniform

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Commercial Code in effect in the State where the Land is located (the "UCC"). The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Security Instrument, Mortgagor hereby grants to Mortgagee, as security for the Debt and other Obligations, a security interest in the Fixtures, the Equipment, and the UCC Collateral (as defined on Schedule 1). Mortgagor's (debtor's) principal place of business is as set forth on the first page hereof and the address of Mortgagee (secured party) is as set forth on the first page hereof. Mortgagor agrees that the foregoing is intended to grant in favor of Mortgagee a first priority continuing lien and security interest in the Property. Mortgagor authorizes the Mortgagee to file UCC financing statements in form and substance satisfactory to the Mortgagee describing the Property and the UCC Collateral. Such financing statements may describe as the property covered thereby "all assets of the debtor, whether now owned or hereafter acquired" or words to that effect, notwithstanding that such UCC Collateral description may be broader in scope than the UCC Collateral described in this Security Instrument.

4. Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures and the proceeds thereof. For purposes of such financing statement, Mortgagor is the "debtor" and Mortgagee is the "secured party", and their respective mailing addresses are those set out in this Security Instrument. Mortgagor's organizational identification number is 04915631. Mortgagor covenants and agrees that the filing of this Security Instrument in the real estate records of the city or county wherein such fixtures are situated shall also operate from the date of such filing as a fixture filing in accordance with 810 ILCS 5/9-501 and 810 ILCS 5/9-502(c). Mortgagor hereby authorizes, within the meaning of 810 ILCS 5/9-509, Mortgagee to file such financing statements in such jurisdictions as it deems necessary or desirable to perfect the security interest granted hereunder.

5. Due on Sale/Encumbrance. Mortgagor shall not cause or suffer to occur a Transfer of the Property or any interest therein, or any direct or indirect interest in Mortgagor, other than as may be permitted pursuant to the Loan Agreement.

6. Default; Remedies. During the existence of an Event of Default, the license granted to Mortgagor under Section 2 hereof shall automatically be revoked, and Mortgagor agrees that Mortgagee may take such action, without notice, presentment, demand, protest, or notice or action of any kind whatever (each of which is hereby expressly waived by Mortgagor), as it deems advisable to protect and enforce its rights against Mortgagor and the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

(a) accelerate the Maturity Date of the Debt and declare any or all of the Debt to be immediately due and payable, whereupon the same shall become immediately due and payable. Upon any such acceleration, payment of such accelerated amount shall constitute a prepayment of the principal balance of the Debt and any applicable prepayment fee, if any, expressly provided for in the Loan Agreement shall then be immediately due and payable;

(b) institute proceedings (judicial or otherwise) for the full or partial foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner as Mortgagee shall elect in its sole and absolute discretion;

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(c) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof, all as may be required or permitted by law, to the extent permitted by law, and, without limiting the foregoing, Mortgagee may: (i) elect to treat any of the Property which consists of (x) a right in action, or (y) which is property that can be severed from the Land covered hereby, or (z) any Improvements (without causing structural damage thereto), as if the same were UCC Collateral, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Land; (ii) from time to time postpone any sale hereunder by making public announcement thereof at the time and place noticed for any such sale; (iii) to the extent the Property consists of several lots, parcels, condominium units or items of property, (A) designate the order in which such lots, parcels, condominium units or items shall be offered for sale or sold, and/or (B) elect to sell such lots, parcels, condominium units or items through a single sale, or through two or more successive sales, or in any other manner Mortgagee designates. No sale (whether conducted pursuant to a judicial action or otherwise) of less than all of the Property shall operate to terminate or otherwise affect the lien of this Security Instrument on any part of the Property not sold until the Debt has been satisfied in full (exclusive of any indemnification or other obligations which are expressly stated in any of the Loan Documents to survive repayment of the Debt);

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

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

(f) seek and obtain the appointment of a receiver, trustee, liquidator or conservator of the Property ("**Receiver**"), without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, any guarantor, indemnitor with respect to the Loan or of any Person liable for the payment of the Debt or whether the Property shall be then occupied as a homestead or not;

(g) enter into or upon the Property, either personally or by its agents, nominees or attorneys, and dispossess Mortgagor and its agents therefrom, without liability for trespass, damages or otherwise, and exclude Mortgagor and its agents wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Property and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat, (ii) complete any construction on the Property in such manner and form as Mortgagee deems reasonably advisable, (iii) make alterations, additions, renewals, replacements and improvements to or on the Property, (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof, (v) require Mortgagor to pay monthly in advance to Mortgagee, or any Receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be physically occupied by Mortgagor, (vi) require Mortgagor to vacate and surrender possession of the Property to Mortgagee or to such Receiver and, in default thereof: Mortgagor may be evicted by summary proceedings or otherwise, and (vii) apply the receipts from the Property to the payment of the Debt and the performance of the Obligations, in such order, priority and proportions as Mortgagee shall deem appropriate in its sole discretion after deducting therefrom all third-party, out of pocket costs and expenses (including, without limitation, reasonable attorneys' fees and costs) incurred by Mortgagee in connection with the aforesaid

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operations and all amounts necessary to pay the Property Taxes, Other Taxes, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees;

(h) exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and/or the other UCC Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and/or the other UCC Collateral; and (ii) require Mortgagor at its sole cost and expense to assemble the Fixtures, the Equipment and/or the other UCC Collateral and make it available to Mortgagee at a convenient place acceptable to Mortgagee. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Fixtures, the Equipment and/or the UCC Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the UCC Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Mortgagee to the repayment of the Debt in such priority and proportions as Mortgagee in its sole discretion shall deem proper;

(i) apply any sums then deposited or held in Reserve Accounts, escrow or otherwise by or on behalf of Mortgagee in accordance with the terms of the Loan Agreement to the payment of the Debt in such order, priority and proportions as Mortgagee shall deem to be appropriate in its sole and absolute discretion; and/or

(j) pursue such other remedies as Mortgagee may have under applicable law and/or in equity.

7. Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property (after deducting all costs, fees and expenses of Mortgagee and of this Security Instrument), and or any part thereof, or any other sums collected by Mortgagee pursuant to the Loan Documents, may be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper, to the extent consistent with law.

8. Actions and Proceedings. Mortgagee has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, which Mortgagee, in its sole and absolute discretion, decides should be brought to protect its interest in the Property.

9. Other Rights, etc. The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Mortgagee to comply with any request of Mortgagor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Loan Documents except as expressly set forth therein. It is agreed that the risk of loss or damage to the Property is on Mortgagor, and except for Mortgagee's wrongful acts, illegal acts, bad faith or gross negligence, Mortgagee shall have no liability whatsoever for any decline in value of the Property, for failure to maintain the Required Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Mortgagee shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Mortgagee's possession. Mortgagee may resort for the payment of the Debt and the performance of the

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Obligations to any other security held by Mortgagee in connection with the Loan in such order and manner as Mortgagee, in its sole discretion, may elect. The rights of Mortgagee under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Mortgagee shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision.

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

11. Recourse and Choice of Remedies. Mortgagee and other Indemnified Parties are entitled to enforce the obligations of Mortgagor, any guarantor and indemnitor contained in any other Loan Document without first resorting to or exhausting any security or collateral for the Debt, and in the event Mortgagee commences a foreclosure action against the Property, Mortgagee is entitled to pursue a deficiency judgment with respect to such obligations against Mortgagor and any guarantor or indemnitor with respect to the Loan to the extent permitted under applicable law and under the Loan Documents. The liability of Mortgagor with respect to the Loan pursuant to any other Loan Document is not limited to the original principal amount of the Loan. Notwithstanding any other provision of this Security Instrument, however, Mortgagor's obligations hereunder are subject to the terms and conditions of Section 6.3 of the Loan Agreement, which terms are incorporated herein by reference.

12. Waivers. Mortgagor hereby waives (in each case to the full extent permitted by applicable law): (a) the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein; (b) any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Mortgagor, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law; (c) any notices of any nature whatsoever from Mortgagee (except as otherwise required by the Loan Documents or applicable law); (d) any right to plead any statute of limitations as a defense to payment of the Debt or performance of the Obligations.

13. GOVERNING LAW; JURISDICTION; SERVICE OF PROCESS. WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THE LIENS CREATED PURSUANT TO THIS SECURITY INSTRUMENT (INCLUDING, WITHOUT LIMITATION, FORECLOSURE), THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF), IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF THE STATE IN WHICH THE PROPERTY IS LOCATED, AND EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THE LOAN DOCUMENTS, THE LAW OF THE STATE OF NEW YORK (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS (OTHER THAN §§ 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW)) SHALL GOVERN ALL MATTERS RELATING TO THIS SECURITY INSTRUMENT AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING

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HEREUNDER OR THEREUNDER PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (WITHOUT REGARD TO CONFLICT OF LAW PROVISIONS THEREOF) PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW. MORTGAGOR (A) AGREES THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS SECURITY INSTRUMENT MAY BE BROUGHT IN A COURT OF RECORD IN THE COUNTY WHERE THE PROPERTY IS LOCATED OR IN THE COURTS OF THE UNITED STATES OF AMERICA LOCATED IN SAID COUNTY, (B) CONSENTS TO THE JURISDICTION OF EACH SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING AND (C) WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY OF SUCH COURTS AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. MORTGAGOR IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH SUIT, ACTION OR PROCEEDING BY SERVICE OF COPIES OF SUCH PROCESS TO MORTGAGOR AT ITS ADDRESS PROVIDED HEREIN. NOTHING CONTAINED IN THIS SECURITY INSTRUMENT SHALL PREVENT MORTGAGEE FROM BRINGING AN ACTION, ENFORCING ANY AWARD OR JUDGMENT, OR EXERCISING ANY RIGHT OR REMEDY AGAINST MORTGAGOR, OR AGAINST ANY SECURITY OR COLLATERAL FOR THE DEBT, WITHIN ANY OTHER COUNTY, STATE OR ANY OTHER FOREIGN OR DOMESTIC JURISDICTION.

14. WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR AND MORTGAGEE (BY ITS ACCEPTANCE OF THIS SECURITY INSTRUMENT) HEREBY AGREE NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVE ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE NOTE, THIS SECURITY INSTRUMENT OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR AND MORTGAGEE AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. THE PARTIES HERETO ARE HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER.

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

16. Limitation on Mortgagee's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in

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loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Mortgagee as a "mortgagee in possession" unless Mortgagee actually elects in writing to become a "mortgagee in possession."

17. After-Acquired Property. All property and rights acquired by Mortgagor after the date of this Security Instrument which by the terms of this Security Instrument shall be subject to the lien and the security interest created hereby, shall immediately upon the acquisition thereof by Mortgagor and without further amendment, modification, supplement, conveyance or assignment become subject to the lien and security interest created by this Security Instrument. Nevertheless, Mortgagor shall execute, acknowledge, deliver and record or file, as appropriate, all and every such further amendments, modifications, supplements, security agreements, financing statements, assignments and assurances as Mortgagee shall require for accomplishing the purposes of this Security Instrument.

18. Release. If Mortgagor shall pay to Mortgagee the Debt in the manner provided in the Note, the Loan Agreement and this Security Instrument, and shall perform the Obligations then outstanding as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, this Security Instrument shall terminate.

19. Miscellaneous. All notices, consents, approvals and requests required or permitted hereunder shall be given (and shall be deemed effect) in the manner described in Section 8.6 of the Loan Agreement. No failure to exercise, and no delay in exercising, on the part of Mortgagee, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right. This Security Instrument shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns; provided, however, Mortgagor may not assign any of its rights, powers, duties or obligations hereunder. This Security Instrument embodies the entire agreement of the parties with respect to the subject matter hereof and supersedes any and all prior commitments, agreements, representations, and understandings, whether written or oral, relating to the subject matter hereof. There are no oral agreements between Mortgagor and Mortgagee. If any provision of this Security Instrument is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be fully severable and all other provisions of this Security Instrument shall remain in full force and effect. This Security Instrument may be amended only by an instrument in writing executed by the party against whom such amendment is sought to be enforced. If Mortgagor consists of more than one Person, the obligations and liabilities of each such Person shall be joint and several. This Security Instrument may be executed in counterparts.

20. State-Specific Provisions. The terms and conditions of this Section 20 shall control over any inconsistent terms and conditions elsewhere in this Security Instrument.

(a) Non-Disturbance of Tenants. Solely with respect to each Lease in effect as of the date hereof, which by its terms conditions its subordination to this Security Instrument to the receipt of an acknowledgment of the recognition and nondisturbance of its Lease, Mortgagee or its successor agrees that so long as such tenant is not in default under such Lease beyond any applicable cure or grace period and attorns to Mortgagee or its successor, Mortgagee shall recognize such Lease and not disturb such tenant's right of possession of its portion of the Property leased by a tenant under such Lease (such Lease a "**Recognized Lease**"). Mortgagee shall not, by virtue of its agreement to recognize any tenant, this Security Instrument or any other instrument to which Mortgagee may be party, be or become subject to any liability or obligation to any tenant under any Lease or otherwise, unless and until Mortgagee takes title to the Property. Without limiting any other provisions of this Security Instrument, with respect to any Recognized Lease, Mortgagee or its successor shall not be:

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(i) liable for any prior act or omission of Mortgagor or any prior landlord, or for consequential damages arising therefrom; or

(ii) subject to any offsets or defenses which a tenant might have as to Mortgagor or any prior landlord; or

(iii) bound by any amendments or modifications of the Lease made without Mortgagee's or its successor's prior written consent where such consent is expressly required by the terms of the Loan Agreement; or

(iv) required or obligated to credit a tenant with any rent or additional rent for any rental period after Mortgagee or its successor's acquisition of the Property if a tenant paid such rent to Mortgagor; or

(v) liable for refund of all or any part of any security deposit.

(b) Compliance With Illinois Mortgage Foreclosure Law. If any provision of this Security Instrument shall be inconsistent with any provision of the statutes or common law of the State of Illinois governing the foreclosure of this Security Instrument (collectively, "**Foreclosure Laws**"), the provisions of the Foreclosure Laws shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Foreclosure Laws. If any provision of this Security Instrument shall grant to Mortgagee any rights or remedies upon an Event of Default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Laws in the absence of said provision, Mortgagee shall be vested with rights granted in the Foreclosure Laws to the full extent permitted by law.

(c) Advances. Upon the occurrence of an Event of Default, Mortgagee may, but need not, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient. By way of illustration and not in limitation of the foregoing, Mortgagee may (but need not) do all or any of the following: make payments of principal or interest or other amounts on any lien, encumbrance or charge on any part of the Property; complete construction; make repairs; collect rents; prosecute collection of any sums due with respect to the Property; purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof; contest any tax or assessment; and redeem from any tax sale or forfeiture affecting the Property. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee to protect the Property and the lien hereof, shall be so much additional indebtedness secured hereby, and shall become immediately due and payable without notice and with interest thereon at Default Rate. In making any payment or securing any performance relating to any obligation of Mortgagor hereunder, Mortgagee shall (as long as it acts in good faith) be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof. No such action of Mortgagee, and no inaction of Mortgagee hereunder, shall ever be considered as a waiver of any right accruing to it on account of any default on the part of Mortgagor. All sums paid by Mortgagee for the purposes herein authorized, or authorized by any Loan Document shall be considered additional advances made under the Note and pursuant to this Security Instrument and shall be secured by this Security Instrument.

(d) Insurance and Illinois Collateral Protection Act. MORTGAGOR IS HEREBY NOTIFIED PURSUANT TO 815 ILCS 180/1 ET. SEQ. AS FOLLOWS:

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

(e) Marshaling and Other Matters. Mortgagor covenants and agrees that it will not at any time insist upon or plead, or in any manner whatsoever claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, or claim, take or insist upon any benefit or advantage of or from any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction, or after such sale or sales claim 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. Mortgagor hereby expressly waives any and all rights of reinstatement or redemption in connection with any foreclosure of this Security Instrument on behalf of Mortgagor, and on behalf of each and every person acquiring any interest or title to the Property subsequent to the date hereof, it being the intent hereof that any and all such rights of reinstatement or redemption of Mortgagor and of all other persons are and shall be deemed to be hereby waived to the extent permitted by law. Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power and remedy as though no such law or laws have been made or enacted. Specifically, but not by way of limitation, Mortgagor waives all rights of redemption pursuant to 735 ILCS 5/15-1601(b) and all rights of reinstatement pursuant to 735 ILCS 5/15-1602, and Mortgagor releases and waives all rights under and by virtue of the homestead exemption of the State of Illinois, all to the fullest extent permitted by law.

(f) Expenses. Without limiting any provision set forth herein, all actual expenses incurred by Mortgagee, to the extent reimbursable under Sections 5/15-1510, 5/15-1512 of the Act (as hereinafter defined), or any other provision of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in any other provision of this Security Instrument, shall be added to the indebtedness secure by this Security Instrument and by the judgment of foreclosure. For purposes herein, the "Act" shall mean the Illinois Mortgage Foreclosure Law, Illinois Compiled Statutes Chapter 735, Section 5/15 – 1101 et seq.

(g) Business Loan; Loan Not For Residential or Agricultural Purposes. Mortgagor stipulates, represents, warrants, affirms and agrees that the Loan secured hereby constitutes a "business loan" within the meaning of Sections 205/4(1) of Chapter 815 of the Illinois Compiled Statutes, as amended. Mortgagor acknowledges that the Property does not constitute agricultural real estate or residential real estate as defined in 735 ILCS 5/15-1201 and 735 ILCS 5/15-1219.

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(h) Waiver. Mortgagor waives, to the extent permitted by law, (a) the benefit of all laws now existing or that may hereafter be enacted providing for any appraisal before sale of any portion of the Property, (b) all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of the State of Illinois pertaining to the rights and remedies of sureties, (c) the right to assert any statute of limitations as a bar to the enforcement of the lien of this Security Instrument or to any action brought to enforce the secured obligations, and (d) any rights, legal or equitable to require marshaling of assets or to require foreclosure sales in a particular order. Without limiting the generality of the preceding sentence, Mortgagor, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument, hereby irrevocably waives any and all rights of reinstatement or redemption from sale or from or under any order, judgment or decree of foreclosure of this Security Instrument or under any power contained herein or under any sale pursuant to any statute, order, decree or judgment of any court. Mortgagor, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Security Instrument, hereby expressly waives and releases all rights to direct the order in which any of the Property shall be sold in the event of any sale or sales pursuant hereto and to have any of the Property and/or any other property now or hereafter constituting security for any of the Debt marshaled upon any foreclosure of this Security Instrument or of any other security for any of said indebtedness. Mortgagee shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Mortgagee shall have the right to determine the order in which any or all portions of the secured obligations are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Mortgagor, on behalf of itself and all persons now or hereafter interested in the Property, voluntarily and knowingly hereby acknowledges that the transaction of which this Security Instrument is a part is a transaction which does not include either agricultural real estate (as defined in the Act) or residential real estate (as defined in the Act).

(i) No Property Manager Lien. Any management agreement for or relating to all or any part of the Property, whether now in effect or entered into hereafter by Mortgagor or on behalf of Mortgagor ("**Management Agreement**"), shall contain a subordination provision whereby the property manager forever and unconditionally subordinates to the lien of this Security Instrument and the Loan Documents any and all mechanic's 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, Illinois Compiled Statutes, Chapter 770, Section 60/1. Such Management Agreement or a short form thereof, including such subordination, shall, at the Mortgagee's written request, be recorded with the office of the recorder of deeds for the county in which the Property is located. Mortgagor's failure to cause any of the foregoing to occur shall constitute an Event of Default under this Security Instrument.

(j) Maximum Indebtedness. The present amount of the Loan secured hereby is \$51,668,990.00; the maximum amount, including present and future Obligations, which may be secured hereby at any one time is \$103,337,980.00, plus interest, plus any disbursements and taxes and insurance on the Property, plus interest thereon at the rate set forth in the Loan Agreement, and any other sums advanced in accordance with the terms hereof or any of the other Loan Documents to protect the security of this Security Instrument or any of the Loan Documents.

(k) Powers of Receiver. The Receiver shall have the power to collect the rents, issues and profits of the Property (i) during the pendency of any foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Mortgagor, but for the intervention of such Receiver, would be entitled to collect such rents, issues and profits. Such Receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Property for a term that extends beyond the time of such Receiver's possession without

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obtaining prior court approval of such lease. The Receiver also shall have the power to market, sell and convey the Property.

(l) Mortgagee-in-Possession. Nothing shall be construed as constituting Mortgagee a mortgagee-in-possession in the absence of actual taking of possession of the Property by Mortgagee.

(m) Mortgagee's Right of Possession. Upon or at any time after filing a complaint to foreclose this Security Instrument, the court may appoint Mortgagee as mortgagee-in-possession of the Property. Mortgagor hereby waives any rights it may have to object to such appointment. Such appointment may be made before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor and without regard to the then value of the Property. Upon such appointment, Mortgagee shall be entitled to take actual possession of the Property, or any part thereof, personally or by its agents or attorneys, and Mortgagor shall surrender such possession to Mortgagee, together with all documents, books, records, papers and accounts of Mortgagor as may be necessary or desirable in connection with the management and operation of the Property. Mortgagee may exclude Mortgagor, its agents and servants wholly therefrom and may act as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee, and under the powers herein granted, hold, operate, manage and control the Property and conduct the business thereof in such manner as it deems proper or necessary to enforce the payment or security of the avails, rents, issues and profits of the Property, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power:

(i) to cancel or terminate any lease or sublease for any cause or on any grounds that would entitle Mortgagor to cancel the same;

(ii) to elect or disaffirm any lease or sublease which is then subordinate to the lien hereof except to the extent proscribed by any non-disturbance agreement to which Mortgagee is a party;

(iii) to extend or modify any then existing leases and to make new leases, which extensions, modifications and new leases may provide for terms to expire or for options to lessees to extend or renew terms to expire beyond the maturity date of the Note and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers, at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein shall be binding upon Mortgagor and all persons whose interests in the Property 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;

(iv) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Property as to it may seem judicious;

(v) to insure and reinsure the same and all risks incidental of Mortgagee's possession, operation and management thereof;

(vi) to receive all of such avails, rents, issues and profits 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 Mortgagor. Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur under said leases or under or by reason of the assignment thereof and of and from any and all

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claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said leases. Should Mortgagee incur any such liability, loss or damage, under said leases or under or by reason of the assignment thereof, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and Mortgagor shall reimburse Mortgagee therefor immediately upon demand; and

(vii) to use and apply the avails, rents, issues, profits and proceeds of the Property in payment of or on account of the following, in such order as Mortgagee may determine:

(1) to the payment of the operating expenses of the Property, including cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agent or agents if management be 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;

(2) to the payment of taxes and special assessments now due or which may hereafter become due on the Property; and, if this is a leasehold mortgage, of all rents due or which may become hereafter due under the underlying lease;

(3) to the payment of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Property, including but not limited to the cost from time to time of installing or replacing refrigeration and gas or electric stoves therein, and of placing the Property in such condition as will, in the judgment of Mortgagee, make it readily rentable; and

(4) to the payment of the Debt or any deficiency which may result from any foreclosure sale.

(n) Submission to Jurisdiction. MORTGAGOR HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT SITTING IN CHICAGO, ILLINOIS OVER ANY ACTION OR PROCEEDING BASED HEREON AND MORTGAGOR HEREBY IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING SHALL BE HEARD AND DETERMINED IN SUCH STATE OR FEDERAL COURT. MORTGAGOR HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING. MORTGAGOR IRREVOCABLY CONSENTS TO THE SERVICE OF ANY AND ALL PROCESS IN ANY SUCH ACTION OR PROCEEDING BY THE MAILING OF COPIES OF SUCH PROCESS TO SUCH MORTGAGOR AT ITS ADDRESS AS SPECIFIED HEREIN OR OTHERWISE IN THE RECORDS OF MORTGAGEE. MORTGAGOR AGREES THAT A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTION BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW.

MORTGAGOR AGREES NOT TO INSTITUTE ANY LEGAL ACTION OR PROCEEDING AGAINST MORTGAGEE OR THE DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY THEREOF, IN ANY COURT OTHER THAN THE ONE HEREINABOVE SPECIFIED. NOTHING IN THIS SECTION SHALL AFFECT THE RIGHT OF MORTGAGEE TO SERVE LEGAL PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR AFFECT THE RIGHT OF

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MORTGAGEE TO BRING ANY ACTION OR PROCEEDING AGAINST MORTGAGOR OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTIONS.

(o) Waiver of Jury Trial. MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS ASSIGNMENT OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 20(o) IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

21. Ground Lease. Mortgagor covenants and agrees to satisfy and fulfill the covenants, conditions and requirements applicable to the Ground Lease as set forth in the Loan Agreement. Without limiting the forgoing, Mortgagor shall (a) pay all rents, additional rents and other sums required to be paid by Mortgagor under and pursuant to the provisions of the Ground Lease as and when such rent or other charge is payable, (b) perform and observe all of the terms, covenants and conditions of the Ground Lease to be performed and observed by it thereunder prior to the expiration of any applicable grace period therein provided, (c) promptly notify (and promptly thereafter deliver to Mortgagee a true copy thereof) of any notice by THE UNIVERSITY OF CHICAGO, an Illinois not-for-profit corporation (the "**Ground Lessor**") to Mortgagor of any default by Mortgagor in the performance or observance of any of the terms, covenants or conditions of the Ground Lease to be performed or observed by it thereunder, and (d) not, without the prior consent of Mortgagee, (i) surrender the leasehold estate created by the Ground Lease, (ii) terminate or cancel the Ground Lease, or (iii) modify, change, supplement, alter or amend the Ground Lease in any respect, either orally or in writing. Mortgagor hereby assigns to Mortgagee, as further security for the payment of the Debt and for the performance and observance of the terms, covenants and conditions of this Security Instrument and the Loan Agreement, all of the rights, privileges and prerogatives of Mortgagor, which rights, privileges and prerogatives may be exercised by Mortgagee upon and during the continuation of an Event of Default, to surrender the leasehold estate created by the Ground Lease or to terminate, cancel, modify, change, supplement, alter or amend the Ground Lease, and any such surrender of a leasehold estate created or termination, cancellation, modification, change, supplement, alteration or amendment of the Ground Lease without the prior consent of Mortgagee shall be void and of no force and effect. If Mortgagor shall default in the performance or observance of any term, covenant or condition of the Ground Lease to be performed or observed by it thereunder, and such default shall remain uncured after the expiration of any applicable cure or grace period, then, without limiting the generality of the other provisions of this Security Instrument and the Loan Agreement, and without waiving or releasing Mortgagor from any of its obligations hereunder or thereunder, Mortgagee shall have the right, but shall be under no obligation, to pay any sums and to perform any act or take any action as may be appropriate to cause all of the terms, covenants and conditions of the Ground Lease to be performed or observed by Mortgagor or to be promptly performed or observed on behalf of Mortgagor, to the end that the rights of Mortgagor in, to and under the Ground Lease shall be kept unimpaired and free from default. If Mortgagee shall make any payment or perform any act or take action in accordance with the preceding sentence, Mortgagee will notify Mortgagor in writing of the making of any such payment, the performance of any such act, or the taking of any such action. In any such event, subject to the rights of the Ground Lessor and other occupants under the Leases, Mortgagee and any person designated by Mortgagee shall have, and are hereby granted, the right to enter upon the Property at any time and from time to time after such default by Mortgagor, which remains uncured after the expiration of any applicable cure or grace period, for the purpose of taking any such action. Mortgagee may pay and expend such sums of money as Mortgagee deems reasonably necessary for any such purpose and upon so

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doing shall be subrogated to any and all rights of the Ground Lessor. Mortgagor hereby agrees to pay to Mortgagee immediately upon demand therefor, all such sums so paid and expended by Mortgagee, together with interest thereon from the day of such demand at the Default Rate. All sums so paid and expended by Mortgagee and the interest thereon shall be secured by this Security Instrument. If Ground Lessor shall deliver to Mortgagee a copy of any notice of default sent by Ground Lessor to Mortgagor under the Ground Lease, such notice shall constitute full protection to Mortgagee for any action taken or omitted to be taken by Mortgagee, in good faith, in reliance thereon. Mortgagor will not subordinate or consent to the subordination of the Ground Lease to any mortgage, security deed, lease or other interest on or in the Ground Lessor's interest in all or any part of the Property, unless, in each such case, the written consent of Mortgagee shall have been first had and obtained.

22. No Merger. Except as provided in the immediately following sentence, it is hereby agreed by the parties that (a) the fee title currently vested in the ground lessor under the Ground Lease and the leasehold estate created thereby currently held by Mortgagor shall not merge but shall always be kept separate and distinct, respectively, notwithstanding the union of such estates in any one Person (or its successors and assigns), including Mortgagor or a third party, whether by purchase or otherwise. If Mortgagor acquires such fee title or any other estate, title or interest in such property, or any part thereof, the lien of this Security Instrument shall automatically spread and attach to, cover and be a first lien upon such acquired estate, title or interest and the same shall thereupon and thereafter be and become a part of the premises encumbered hereby with the same force and effect as if specifically encumbered herein. Mortgagor agrees to execute all instruments and documents which Mortgagee may require to ratify, confirm and further evidence Mortgagee's first lien on the acquired estate, title or interest. Furthermore, upon an Event of Default and during the continuance thereof, Mortgagor hereby appoints Mortgagee its true and lawful attorney-in-fact to execute and deliver all such instruments and documents in the name and on behalf of Mortgagor (this power, being coupled with an interest, shall be irrevocable as long as the Debt secured hereby remains unpaid).

23. Rejection of the Ground Lease. Notice is hereby given that Mortgagor's rights with respect to the handling and treatment of the Ground Lease pursuant to the Bankruptcy Code, or any other law affecting creditor's rights, including its rejection, disaffirmance or termination have been limited and assigned pursuant to Section 5.1.16 of the Loan Agreement.

24. Notice of Ground Lease Estoppel. Notice is hereby given that Ground Lessor and Mortgagee have executed an estoppel with respect to the Ground Lease which sets forth certain rights and obligations of Ground Lessor and Mortgagee with respect thereto, and which modifies certain provisions of the Ground Lease as it related to Mortgagee.

25. Revolving Loans/Line of Credit Loans. This Security Instrument secures, among other things, "revolving credit" and "lines of credit" as those terms are defined and described in 915 ILCS 205/4.1, and will secure not only existing indebtedness, but also future advances, whether such advances are obligatory or to be made at the option of the Mortgagee or the secured parties, or otherwise, as are made within twenty (20) years from the date hereof, to the same extent as if such future advances were made on the date of execution of this Security Instrument, although there may be no advance made at the time of execution hereof, and although there may be no indebtedness outstanding at the time any advance is made. The lien of this Security Instrument shall be valid as to all such indebtedness and future advances from the time this Security Instrument is recorded.

[NO FURTHER TEXT ON THIS PAGE]

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

MORTGAGOR:

MILLENNIUM ON LASALLE LLC,
an Illinois limited liability company, formerly
known as Millenium on LaSalle LLC

By: [Signature]
Name: Ruslan Krivoruchko
Title: Manager

Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

I, JOHANNA LLANOS a Notary Public in and for said County and State, DO HEREBY CERTIFY THAT Ruslan Krivoruchko, the Manager of MILLENNIUM ON LASALLE LLC, an Illinois limited liability company, formerly known as Millenium on LaSalle LLC, personally known to me, or proved to me on the basis of satisfactory evidence, to be the same person whose name is subscribed to the foregoing instrument appeared before me this day in person and acknowledged that he signed and delivered said instrument as his own free and voluntary act and deed and as the free and voluntary act and deed of said limited liability company for the uses and purposes therein set forth.

Given my hand and notarial seal this 1 day of JUNE, 2016,
[Signature]
Notary Public

My Commission Expires:



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Schedule 1

The Property

The term "**Property**" shall mean all of the following:

(a) Land. The leasehold estate in and to the real property described on Exhibit A attached hereto and made a part hereof (the "**Land**") created pursuant to that certain ground lease (or those certain ground leases) described on Exhibit B attached hereto (as amended from time to time in accordance with the Loan Documents, individually and collectively, the "**Ground Lease**"), TOGETHER WITH all of Mortgagor's right, title and interest in, to and under said Ground Lease, and all additional lands, estates and development rights hereafter acquired by Mortgagor for use in connection with the Land and all additional lands and estates therein which may, from time to time owned by Mortgagor;

(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) Fixtures. All Equipment (as defined below) and other items attached to and/or related to the Land and/or the Improvements forming part of the Property that it are deemed "fixtures" and/or "real property" under the law of the state where the Land is located including, without limitation, all building or construction materials intended for construction, alteration, or repair of the Property (collectively, the "**Fixtures**"); it being understood and agreed that the Improvements and the Fixtures are part and parcel of the Land appropriated to the use thereof and, whether affixed or annexed to the Land or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and encumbered hereby;

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

(e) Equipment. All "equipment" as such term is defined in the UCC (as hereinafter defined) used or installed (or intended to be used or installed) at or in connection with the Improvements or the Land (wherever located) including, but not limited to, all machinery, equipment, furnishings, furniture, tools, appliances, fittings, apparatuses, engines, devices, pumps, pipes, plumbing, conduits, tanks, structures, and any and all systems and related items for cleaning, sprinklers, fire extinguishing, heating, cooling, ventilating, laundry, incinerating, electrical, lighting, sound, pollution control, security, disposal, sewer, utilities, data transmission, communications, paging, internet, television, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing (collectively, the "**Equipment**");

(f) UCC Collateral. All personal property, intangibles, general intangibles, documents, instruments, chattel paper, and accounts, as such terms are defined in the UCC including, without limitation, all furniture, furnishings, objects of art, Equipment, supplies, contract rights, entitlements, the Clearing Account, the Cash Management Account, the Reserve Accounts (and any sums, cash, checks,

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drafts, securities, certificates and instruments, if any, from time to time deposited or held therein or credited thereto), money, accounts receivable, credit card receivables, franchises, licenses, certificates, permits, claims, suits, choses, approvals, plans, specifications, drawings, surveys, reports, trademarks, trade names, service marks, logos, copyrights, goodwill, books and records, any interest rate cap agreements or other interest rate hedging contracts or products, and any other property or rights constituting to the full extent that the same may be subject to the UCC, now or hereafter owned by Mortgagor, whether used in connection with or relating to the Property or otherwise, together with all accessories, replacements and substitutions thereto (collectively, the “**UCC Collateral**”);

(g) Leases and Rents. All Leases, together with all extensions and amendments thereto, all income, rents, fees, payments, revenues, issues profits, royalties bonuses and other amounts payable thereunder, all guaranties of the lessees’ obligations thereunder, all security deposits (whether in cash, letter of credit, securities or otherwise) provided in connection therewith (collectively, the “**Rents**”);

(h) Condemnation Awards. All awards which may heretofore and hereafter be made with respect to the Property (“**Awards**”);

(i) Insurance Proceeds. All proceeds and other payments payable under or in respect of any insurance policies covering or relating to the Property;

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

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

(l) 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 Property and to commence any action or proceeding to protect the interest of Mortgagee in the Property;

(m) Proceeds. All “proceeds” as such term is defined in the UCC of any of the foregoing, claims, suits, (collectively called the “**Intangibles**”);

(n) Historic Tax Credit Proceeds. All “proceeds” as such term is defined in the UCC of any historic preservation tax credit provided in Section 47 of the Internal Revenue Code of 1986, as amended, which may heretofore and hereafter be made with respect to the Property; and

(o) Other Rights. Any and all other rights of Mortgagor in and to the items set forth in Sections (a) through (n) above.

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EXHIBIT A

(Legal Description of the Land)

PARCEL 1: THE LEASEHOLD ESTATE CREATED BY THE INSTRUMENT HEREIN REFERRED TO AS THE LEASE, EXECUTED BY: THE UNIVERSITY OF CHICAGO, A NOT FOR PROFIT CORPORATION OF ILLINOIS, AS LESSOR, AND 29/39 SOUTH LASALLE HOLDINGS, L.L.C., A DELAWARE CORPORATION, AS LESSEE, DATED JULY 8, 2004, AN AMENDED AND RESTATED MEMORANDUM OF LEASE WAS RECORDED JULY 8, 2004 AS DOCUMENT 0419027073; A SECOND AMENDED AND RESTATED GROUND LEASE WAS EXECUTED BETWEEN THE UNIVERSITY OF CHICAGO AND ROC II IL LASALLE, LLC, A DELAWARE LIMITED LIABILITY COMPANY AND AN AMENDED MEMORANDUM OF GROUND LEASE WAS RECORDED JANUARY 10, 2014 AS DOCUMENT NO. 1401022119, AND A GROUND LEASE ASSIGNMENT WAS RECORDED JANUARY 28, 2015 AS DOCUMENT NO. 1502818036, AS AFFECTED BY THE CONSENT, ESTOPPEL AND AGREEMENT OF GROUND LESSOR, GROUND LESSEE AND LEASEHOLD MORTGAGEE DATED AS OF 06-14, 2016 AND RECORDED 06-15, 2016 AS DOCUMENT NO. 1616716070 WHICH DEMISES THE FOLLOWING DESCRIBED LAND AND OTHER PROPERTY FOR A TERM OF YEARS BEGINNING JULY 1, 1962 AND JULY 8, 2004 AND ENDING JULY 7, 2103.

LOTS 29, 30, 31 AND 32 IN ASSESSOR'S DIVISION OF BLOCK 118 IN SCHOOL SECTION ADDITION TO CHICAGO, IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPTING OWNERSHIP OF THE BUILDINGS AND IMPROVEMENTS LOCATED ON THE LAND.

PARCEL 2: EASEMENTS FOR ACCESS, STORM WATER RUNOFF, GARBAGE RECEPTACLE STORAGE, CONSTRUCTION ACTIVITIES, EXISTING ENCROACHMENTS, UNDERGROUND UTILITY ACTIVITIES AS DEFINED THEREIN, MOVING ACTIVITIES, UNICOM FACILITIES, USE OF CONCRETE PADS, ACCESS TO UNDERGROUND VAULTS AND FOR LIGHT AND AIR, ALL AS CREATED AND DEFINED IN SECTIONS 3.1 AND 3.6 OF THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS FOR 29-39 SOUTH LASALLE STREET, DATED AS JANUARY 9, 2014 AND RECORDED JANUARY 10, 2014 AS DOCUMENT NO. 1401022118, AS AMENDED BY THE FIRST AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS DATED AS OF JANUARY 27, 2015 AND RECORDED JANUARY 28, 2015 AS DOCUMENT NO. 1502818035, EXECUTED BY THE UNIVERSITY OF CHICAGO, AN ILLINOIS NOT-FOR-PROFIT- CORPORATION, KHP III 39 CHICAGO LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND ROC II IL LASALLE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, OVER AND ACROSS THE VACATED PUBLIC ALLEY DESCRIBED AS "THE ALLEY" IN EXHIBIT A TO SAID FIRST AMENDMENT.

Common Property Address: 29 S. LaSalle Street, Chicago, Illinois

Permanent Index Numbers: 17-16-204-005-0000

UNOFFICIAL COPY

EXHIBIT B

(Description of the Ground Lease)

That certain Second Amended and Restated Ground Lease dated January 9, 2014 between THE UNIVERSITY OF CHICAGO, an Illinois not-for-profit corporation, and ROC II LASALLE, LLC, a Delaware limited liability company ("ROC"), as assigned to MILLENNIUM ON LASALLE LLC, an Illinois limited liability company ("Borrower") pursuant to that certain Ground Lease Assignment dated January 27, 2015 by and between ROC and Borrower.

Property of Cook County Clerk's Office