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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



Doc# 1719406185 Fee \$74.00

RHSP FEE: \$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 07/13/2017 04:17 PM PG: 1 OF 19

The property identified as: **PIN:** 03-17-301-017-0000

Address:

Street: 202-470 EAST RAND ROAD

Street line 2:

City: ARLINGTON HEIGHTS

State: IL

ZIP Code: 60004

Lender: NATIXIS, NEW YORK BRANCH

Borrower: AMCAP NORTHPOINT II LLC

Loan / Mortgage Amount: \$34,700,000.00

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: 779006EB-B713-4295-A685-5CA670405520

Execution date: 6/21/2017

CCRD REVIEW

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THIS INSTRUMENT PREPARED BY
AND WHEN RECORDED RETURN TO:

DLA Piper LLP (US)
1251 Avenue of the Americas
New York New York, 10020
Attn: Jeffrey B. Steiner, Esq.

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

AMCAP NORTHPOINT II LLC
(Mortgagor)

to

NATIXIS, NEW YORK BRANCH
(Mortgagee)

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

Dated: June 21, 2017

Property Location: 202-470 East Rand Road
Arlington Heights, Illinois 6004

County: Cook County

PIN Nos.: 03-17-301-017-0000

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EXECUTION VERSION

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

Maturity Date (exclusive of any renewal or extension rights): July 9, 2020

This MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Security Instrument*"), made as of June 21, 2017, by AMCAP NORTHPOINT II LLC, a Delaware limited liability company, having an office at c/o AmCap CCN Manager LLC, 1281 East Main Street, Stamford, Connecticut 06902, as mortgagor ("*Borrower*"), to NATIXIS, NEW YORK BRANCH, a branch of Natixis S.A., a société anonyme à conseil d'administration, organized and existing under the laws of France, having an address at 1251 Avenue of the Americas, New York, New York 10020, as mortgagee (together with its successors and assigns, hereinafter referred to as "*Lender*").

Borrower and Lender have entered into that certain Loan Agreement, dated as of the date hereof (as amended, modified, restated, consolidated, replaced or supplemented from time to time, the "*Loan Agreement*"), pursuant to which Lender is making a secured loan to Borrower in the principal amount of up to Thirty-Four Million Seven Hundred Thousand and No/100 Dollars (\$34,700,000.00) (the "*Loan*"). Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by that certain Promissory Note, dated the date hereof, made by Borrower to Lender in such principal amount (as the same may be amended, modified, restated, severed, consolidated, renewed, replaced, or supplemented from time to time, the "*Note*").

To secure the payment of the Note and all sums which may or shall become due hereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Security Instrument, the Loan Agreement and such other documents, as any of the same may, from time to time, be modified, amended, restated, replaced or supplemented, being hereinafter collectively referred to as the "*Loan Documents*"), including (i) the payment of interest and other amounts which would accrue and become due but for the filing of a petition in bankruptcy (whether or not a claim is allowed against Borrower for such interest or other amounts in any such bankruptcy proceeding) or the operation of the automatic stay under Section 362(a) of Title 11 of the United States Code (the "*Bankruptcy Code*"), and (ii) the costs and expenses of enforcing any provision of any Loan Document (all such sums being hereinafter collectively referred to as the "*Debt*"), Borrower hereby irrevocably mortgages, grants, bargains, sells, conveys, transfers, pledges, sets over and assigns, and grants a security interest, to and in favor of Lender, all of Borrower's right, title and interest in and to the land described in Exhibit "A" (the "*Premises*"), and the buildings, structures, fixtures and other improvements now or hereafter located thereon (the "*Improvements*");

TOGETHER WITH, all right, title, interest and estate of Borrower now owned or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the Improvements, and the property, rights, interests and estates hereinafter described are collectively referred to herein as the "*Property*"):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, rights to oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements; and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, highway, alley or avenue, opened, vacated or proposed, in front of or adjoining the Premises, to the center line thereof; and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property,

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possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures (including all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), inventory, materials, supplies and other articles of personal property and accessions thereof, renewals and replacements thereof and substitutions therefor, and other property of every kind and nature, tangible or intangible, owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Premises or the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively referred to as the "*Equipment*"), including any leases of, deposits in connection with, and proceeds of any sale or transfer of any of the foregoing, and the right, title and interest of Borrower in and to any of the Equipment that may be subject to any "security interest" as defined in the Uniform Commercial Code, as in effect in the State of Illinois (the "*UCC*"), superior in lien to the lien of this Security Instrument;

(c) all awards or payments, including interest thereon, that may heretofore or hereafter be made with respect to the Premises or the Improvements, whether from the exercise of the right of eminent domain or condemnation (including any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Premises or Improvements;

(d) all leases and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises or the Improvements, including any extensions, renewals, modifications or amendments thereof (hereinafter collectively referred to as the "*Leases*") and all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a Bankruptcy Proceeding) or in lieu of rent or rent equivalents, royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Premises and/or the Improvements, including all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Premises or the Improvements, or rendering of services by Borrower or any of its agents or employees, and proceeds, if any, from business interruption or other loss of income insurance (hereinafter collectively referred to as the "*Rents*"), together with all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(e) all proceeds of and any unearned premiums on any of Borrower's insurance policies covering the Property, including the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(f) the right, in the name and on behalf of Borrower, 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 Lender in the Property;

(g) all of Borrower's accounts (including reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, and all of Borrower's franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents,

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licenses, management agreements, contract rights (including any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair or other work upon the Property), approvals, actions, refunds of real estate taxes and assessments (and any other governmental impositions related to the Property) and causes of action that now or hereafter relate to, are derived from or are used in connection with the Property, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively referred to as the "*Intangibles*"); and

(h) all proceeds, products, offspring, rents and profits from any of the foregoing, including those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing.

Without limiting the generality of any of the foregoing, in the event that a case under the Bankruptcy Code is commenced by or against Borrower, pursuant to Section 552(b)(2) of the Bankruptcy Code, the security interest granted by this Security Instrument shall automatically extend to all Rents acquired by Borrower after the commencement of the case and shall constitute cash collateral under Section 363(a) of the Bankruptcy Code.

TO HAVE AND TO HOLD the Property unto Lender and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth in the Loan Documents in a timely manner, these presents and the estate hereby granted shall cease, terminate and be void;

AND Borrower represents and warrants to and covenants and agrees with Lender as follows:

1. Payment of Debt and Incorporation of Covenants, Conditions and Agreements.

Borrower shall pay the Debt at the time and in the manner provided in the Loan Documents. All the covenants, conditions and agreements contained in the Loan Documents are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein. Without limiting the generality of the foregoing, Borrower (i) agrees to insure, repair, maintain and restore damage to the Property, pay Taxes, and comply with Legal Requirements, in accordance with the Loan Agreement, and (ii) agrees that the Proceeds of Insurance and Awards for Condemnation shall be settled, held and applied in accordance with the Loan Agreement.

2. Leases and Rents.

(a) Borrower does hereby absolutely and unconditionally assign to Lender all of Borrower's right, title and interest in all current and future Leases and Rents, it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Such assignment shall not be construed to bind Lender to the performance of any of the covenants or provisions contained in any Lease or otherwise impose any obligation upon Lender. Nevertheless, subject to the terms of this Section 2(a), Lender grants to Borrower a revocable license to operate and manage the Property and to collect the Rents subject to the requirements of the Loan Agreement (including the deposit of Rents into the Clearing Account). Upon the occurrence and during the continuation of an Event of Default, without the need for notice or demand, the license granted to Borrower herein shall automatically be revoked, and Lender shall immediately be entitled to possession of all Rents in (or required by the terms of the Loan Documents to be deposited in) the Clearing Account, the Deposit Account (including all Subaccounts thereof) and all Rents collected thereafter (including Rents past due

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and unpaid), whether or not Lender enters upon or takes control of the Property. Borrower hereby grants and assigns to Lender the right, at its option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of such license may be applied toward payment of the Debt in such priority and proportions as Lender in its sole discretion shall deem proper.

(b) Borrower shall not enter into, modify, amend, cancel, terminate or renew any Lease except as provided in Section 5.9 of the Loan Agreement.

3. Use of Property. Borrower shall not initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property without prior notice to Lender. If under applicable zoning provisions the use of the Property is or shall become a nonconforming use, Borrower shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Lender, which consent shall not be unreasonably withheld, conditioned or delayed. Borrower shall not (i) change the use of the Property (ii) permit or suffer to occur any waste on or to the Property or (iii) take any steps to convert the Property to a condominium or cooperative form of ownership.

4. Transfer or Encumbrance of the Property.

(a) Borrower acknowledges that (i) Lender has examined and relied on the creditworthiness and experience of the principals of Borrower in owning and operating properties such as the Property in agreeing to make the Loan, (ii) Lender will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for the Debt, and (iii) Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt, Lender can recover the Debt by a sale of the Property. Borrower shall not sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer the Property or any part thereof, or suffer or permit any Transfer to occur, other than a Permitted Transfer.

(b) Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon any Transfer in violation of this Section 4. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Property (and every other Transfer) regardless of whether voluntary or not. Any Transfer made in contravention of this Section 4 shall be null and void and of no force and effect. Borrower agrees to bear and shall pay or reimburse Lender on demand for all reasonable expenses (including reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums) incurred by Lender in connection with the review, approval and documentation of any Permitted Transfer.

5. Changes in Laws Regarding Taxation. If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay such tax, with interest and penalties thereon, if any. If Lender is advised by its counsel that the payment of such tax or interest and penalties by Borrower would be unlawful, taxable to Lender or unenforceable, or would provide the basis for a defense of usury, then Lender shall have the option, by notice of not less than ninety (90) days, to declare the Debt immediately due and payable, without premium, Exit Fee or penalty. No Exit Fee or Yield Maintenance Premium (if any) shall be payable in connection with a prepayment due to this Section 5.

6. No Credits on Account of the Debt. Borrower shall not claim or demand or be entitled to any credit on account of the Debt for any part of the Taxes assessed against the Property, and no

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deduction shall otherwise be made or claimed from the assessed value of the Property for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by notice of not less than ninety (90) days, to declare the Debt immediately due and payable. No Exit Fee or Yield Maintenance Premium (if any) shall be payable in connection with a prepayment due to this Section 6.

7. **Further Acts, Etc.** Borrower shall, at its sole cost, perform, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the property and rights hereby mortgaged, given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument, or for filing, registering or recording this Security Instrument or for facilitating the sale and transfer of the Loan and the Loan Documents in connection with a "Secondary Market Transaction" as described in Section 9.1 of the Loan Agreement. Upon foreclosure, the appointment of a receiver or any other relevant action, Borrower shall, at its sole cost, cooperate fully and completely to effect what is necessary for the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Property. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including such rights and remedies available to Lender pursuant to this Section 7.

8. **Recording of Security Instrument, Etc.** Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, shall cause this Security Instrument, and any security instrument creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower shall pay all reasonable filing, registration or recording fees, all reasonable expenses incident to the preparation, execution and acknowledgment of and all federal, state, county and municipal, taxes, duties, imposts, documentary stamps, assessments and charges arising out of or in connection with the execution and delivery of, this Security Instrument, any supplemental hereto, any security instrument with respect to the Property or any required instrument of further assurance, except where prohibited by law so to do. Borrower shall hold harmless and indemnify Lender, its successors and assigns, against any liability incurred by reason of the imposition of any tax on the making or recording of this Security Instrument.

9. **Right to Cure Defaults.** Upon the occurrence and during the continuation of any Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, perform the obligations in Default in such manner and to such extent as Lender may reasonably deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes or appear in, defend or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after receipt of written notice from Lender that such cost or expense was incurred to the date of payment to Lender, shall constitute a portion of the Debt, shall be secured by this Security Instrument and the other Loan Documents and shall be due and payable to Lender within five (5) days of written demand therefor.

10. **Remedies.**

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(a) Upon the occurrence and during the continuation of any Event of Default, Lender may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, by Lender itself or otherwise, including the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (i) declare the entire Debt to be immediately due and payable;
- (ii) institute a proceeding or proceedings, judicial or nonjudicial, to the extent permitted by law, by advertisement or otherwise, for the complete foreclosure of this Security Instrument, in which case the Property 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;
- (iii) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien of this Security Instrument for the balance of the Debt not then due;
- (iv) sell for cash or upon credit the Property and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to the powers granted herein, to the extent permitted by law, 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 as may be required by law;
- (v) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any other Loan Document;
- (vi) recover judgment on the Note either before, during or after any proceeding for the enforcement of this Security Instrument;
- (vii) apply for the appointment of a trustee, receiver, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of the Borrower or of any Person liable for the payment of the Debt;
- (viii) enforce Lender's interest in the Leases and Rents and enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and employees therefrom, and Lender may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with the Property and conduct the business thereat; (B) complete any construction on the Property in such manner and form as Lender deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Property; (D) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive Rents; and (E) apply the receipts from the Property to the payment of the Debt, after deducting therefrom all out-of-pocket expenses

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(including reasonable attorneys' fees and disbursements) actually incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, insurance and other charges in connection with the Property, as well as just and reasonable compensation for the services of Lender, and its counsel, agents and employees;

(ix) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Property occupied by Borrower, and require Borrower to vacate and surrender possession of the Property to Lender or to such receiver, and, in default thereof, evict Borrower by summary proceedings or otherwise; or

(x) pursue such other rights and remedies as may be available at law or in equity or under the UCC, including the right to receive and/or establish a lock box for all Rents and proceeds from the Intangibles and any other receivables or rights to payments of Borrower relating to the Property.

In the event of a sale, by foreclosure or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien on the remaining portion of the Property.

(b) The proceeds of any sale made under or by virtue of this Section 10, together with any other sums which then may be held by Lender under this Security Instrument, whether under the provisions of this Section 10 or otherwise, shall be applied by Lender to the payment of the Debt in such priority and proportion as Lender in its sole discretion shall deem proper.

(c) Lender may adjourn from time to time any sale by it to be made under or by virtue of this Security Instrument by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable law, Lender, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(d) Upon the completion of any sale or sales pursuant hereto, Lender, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. Lender is hereby irrevocably appointed the true and lawful attorney of Borrower, which appointment is coupled with an interest, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Property and rights so sold and for that purpose Lender may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Borrower hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Any sale or sales made under or by virtue of this Section 10, whether under any power herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Borrower in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Borrower and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under Borrower.

(e) Upon any sale made under or by virtue of this Section 10, whether made under any power herein granted or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Lender may bid for and acquire the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting

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therefrom the expenses of the sale and costs of the action and any other sums which Lender is authorized to deduct under this Security Instrument or any other Loan Document.

(f) No recovery of any judgment by Lender and no levy of an execution under any judgment upon the Property or upon any other property of Borrower shall affect in any manner or to any extent the lien of this Security Instrument upon the Property or any part thereof, or any liens, rights, powers or remedies of Lender hereunder, but such liens, rights, powers and remedies of Lender shall continue unimpaired as before.

(g) Lender may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this Section 10 at any time before the conclusion thereof, as determined in Lender's sole discretion and without prejudice to Lender.

(h) Lender may resort to any remedies and the security given by this Security Instrument or in any other Loan Document in whole or in part, and in such portions and in such order as determined in Lender's sole discretion. No such action shall in any way be considered a waiver of any rights, benefits or remedies evidenced or provided by any Loan Document. The failure of Lender to exercise any right, remedy or option provided in any Loan Document shall not be deemed a waiver of such right, remedy or option or of any covenant or obligation secured by any Loan Document. No acceptance by Lender of any payment after the occurrence and during the continuation of any Event of Default and no payment by Lender of any obligation for which Borrower is liable hereunder shall be deemed to waive or cure any Event of Default (other than to the extent such Event of Default is for non-payment of the amount accepted by Lender), or Borrower's liability to pay such obligation. No sale of all or any portion of the Property, no forbearance on the part of Lender and no extension of time for the payment of the whole or any portion of the Debt or any other indulgence given by Lender to Borrower, shall operate to release or in any manner affect the interest of Lender in the remaining Property or the liability of Borrower to pay the Debt. No waiver by Lender shall be effective unless it is in writing and then only to the extent specifically stated. All out-of-pocket costs and expenses actually incurred by Lender in exercising its rights and remedies under this Section 10 (including reasonable attorneys' fees and disbursements to the extent permitted by law), shall be paid by Borrower within five (5) days after written notice from Lender, with interest at the Default Rate for the period after receipt of written notice from Lender, and such costs and expenses shall constitute a portion of the Debt and shall be secured by this Security Instrument.

(i) The interests and rights of Lender under the Loan Documents shall not be impaired by any indulgence, including (x) any renewal, extension or modification which Lender may grant with respect to any of the Debt, (y) any surrender, compromise, release, renewal, extension, exchange or substitution which Lender may grant with respect to the Property or any portion thereof or (z) any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Debt.

11. Right of Entry. In addition to any other rights or remedies granted under this Security Instrument, Lender and its agents shall, upon reasonable advance notice to Borrower (which may be given verbally) and subject to the rights of tenants under any Leases, have the right to enter and inspect the Property at any reasonable time during the term of this Security Instrument. The reasonable out-of-pocket cost of such inspections or audits actually incurred by Lender shall be borne by Borrower should Lender reasonably determine that an Event of Default exists, including the cost of all follow up or additional investigations or inquiries deemed reasonably necessary by Lender. The cost of such inspections, if not paid for by Borrower within ten (10) days following receipt of written demand, may be added to the principal balance of the sums due under the Note and this Security Instrument and shall bear interest thereafter until paid at the Default Rate.

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12. Security Agreement. This Security Instrument is both a real property mortgage and a “security agreement” within the meaning of the UCC. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. Borrower by executing and delivering this Security Instrument has granted and hereby grants to Lender, as security for the Debt, a security interest in the Property to the full extent that the Property may be subject to the UCC (such portion of the Property so subject to the UCC being called in this Section 12 the “*Collateral*”). This Security Instrument shall also constitute a “fixture filing” for the purposes of the UCC. As such, this Security Instrument covers all items of the Collateral that are or are to become fixtures. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this Security Instrument. Upon the occurrence and continuation of an Event of Default, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon the occurrence and continuation of an Event of Default, upon request or demand of Lender, Borrower shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place acceptable to Lender. Borrower shall pay to Lender on demand any and all expenses, including reasonable attorneys’ fees and disbursements, actually incurred or paid by Lender in protecting the interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral, sent to Borrower in accordance with the provisions hereof at least ten days prior to such action, shall constitute commercially reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its sole discretion shall deem proper. In the event of any change in name, identity, structure or place of incorporation, organization or formation of Borrower, Borrower shall notify Lender thereof and promptly after request shall file and record such UCC forms as are necessary to maintain the priority of Lender’s lien upon and security interest in the Collateral, and shall pay all expenses and fees in connection with the filing and recording thereof. If Lender shall reasonably require the filing or recording of additional UCC forms or continuation statements, Borrower shall, promptly after request, file and record such UCC forms or continuation statements as Lender shall reasonably deem necessary, and shall pay all reasonable expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Borrower’s obligations under the Loan Documents or alter any of the economic terms of the Loan. Borrower hereby irrevocably appoints Lender as its attorney-in-fact, coupled with an interest, to file with the appropriate public office on its behalf any financing or other statements naming Lender, as secured party, and Borrower, as debtor, in connection with the Collateral covered by this Security Instrument.

13. Actions and Proceedings. Lender 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, in the name and on behalf of Borrower, which Lender, in its sole discretion, decides should be brought to protect its or their interest in the Property. Lender shall, at its option, be subrogated to the lien of any mortgage, deed of trust or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

14. Marshaling and Other Matters. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each and every Person acquiring any interest in or title to the Property

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subsequent to the date of this Security Instrument and on behalf of all Persons to the extent permitted by applicable law. The lien of this Security Instrument shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Lender and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Lender of any other security for any portion of the Debt, (ii) any failure, neglect or omission on the part of Lender to realize upon or protect any portion of the Debt or any collateral security therefor, or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any portion of the Debt or of any of the collateral security therefor; and Lender may foreclose, or exercise, any other remedy available to Lender under other Loan Documents without first exercising or enforcing any of its remedies under this Security Instrument, and any exercise of the rights and remedies of Lender hereunder shall not in any manner impair the Debt or the liens of any other Loan Document or any of Lender's rights and remedies thereunder.

15. **Notices.** All notices, consents, approvals and requests required or permitted hereunder (a "Notice") shall be given in writing and shall be effective for all purposes if either hand delivered with receipt acknowledged, or by a nationally recognized overnight delivery service (such as Federal Express), or by certified or registered United States mail, return receipt requested, postage prepaid, or by facsimile and confirmed by facsimile answer back, in each case addressed as follows (or to such other address or Person as a party shall designate from time to time by Notice to the other party): If to Lender: Natixis, New York Branch, 1251 Avenue of the Americas, New York, New York 10020; Attention: Real Estate Administration, Telecopier: (212) 891-6851 with copies to: DLA Piper LLP (US), 1251 Avenue of the Americas, New York, New York 10020, Attention: Jeffrey B. Steiner, Esq., Telecopier: (212) 335-4501; if to Borrower: c/o AmCap CCN Manager LLC, 1281 East Main Street, Stamford, Connecticut 06902 Attention: Jake Bisenius, President and Jonathan Greenfield, Chief Financial Officer, Telecopier: (203) 327-2003 with a copy of default notices only to: Robinson & Cole LLP, 280 Trumbull Street, Hartford, CT 06103, Attention: Garry C. Berman, Esq., Telecopier: (860) 275-8299. A Notice shall be deemed to have been given: (a) in the case of hand delivery, at the time of delivery; (b) in the case of registered or certified mail, when delivered or the first attempted delivery on a Business Day; (c) in the case of overnight delivery, upon the first attempted delivery on a Business Day; or (d) in the case of facsimile transmission, when sent and electronically confirmed.

16. **Inapplicable Provisions.** If any term, covenant or condition of this Security Instrument is held to be invalid, illegal or unenforceable in any respect, this Security Instrument shall be construed without such provision.

17. **Headings.** The section headings in this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

18. **Duplicate Originals.** This Security Instrument may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

19. **Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form; and the word "**Borrower**" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "**Lender**" shall mean "Lender and any subsequent holder of the Note," the words "**Property**" shall include any portion of the Property and any interest therein, the word "**including**" means "including but not limited to" and the words "**attorneys' fees**" shall include any and all reasonable out-of-pocket attorneys' fees, paralegal and

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law clerk fees, including, fees at the pre-trial, trial and appellate levels actually incurred or paid by Lender in protecting its interest in the Property and Collateral and enforcing its rights hereunder.

20. Homestead. Borrower hereby waives and renounces all homestead and exemption rights provided by the Constitution and the laws of the United States and of any state, in and to the Property as against the collection of the Debt, or any part thereof.

21. Assignments. Lender shall have the right to assign or transfer its rights under this Security Instrument in accordance with the transfer provisions of the Loan Agreement. Any Permitted Assignee that meets the Eligibility Requirements shall be entitled to all the benefits afforded Lender under this Security Instrument.

22. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, BORROWER 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 SECURITY INSTRUMENT 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 BORROWER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. LENDER IS HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION 22 IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER.

23. Consents. Any consent or approval by Lender in any single instance shall not be deemed or construed to be Lender's consent or approval in any like matter arising at a subsequent date, and the failure of Lender to promptly exercise any right, power, remedy, consent or approval provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Lender be estopped from exercising such right, power, remedy, consent or approval at a later date. Any consent or approval requested of and granted by Lender pursuant hereto shall be narrowly construed to be applicable only to Borrower and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and any such consent or approval shall not be deemed to constitute Lender a venturer or partner with Borrower nor shall privity of contract be presumed to have been established with any such third party. If Lender reasonably deems it to be in its best interest to retain assistance of persons, firms or corporations (including attorneys, title insurance companies, appraisers, engineers and surveyors) with respect to a request for consent or approval, Borrower shall reimburse Lender for all reasonable out-of-pocket costs actually incurred in connection with the employment of such persons, firms or corporations.

24. Employee Benefit Plan. During the term of this Security Instrument, unless Lender shall have previously consented in writing, (i) Borrower shall take no action that would cause it to become an "employee benefit plan" as defined in 29 C.F.R. Section 2510.3-101, or "assets of a governmental plan" subject to regulation under the state statutes, and (ii) Borrower shall not sell, assign or transfer the Property, or any portion thereof or interest therein, to any transferee that does not execute and deliver to Lender its written assumption of the obligations of this covenant. Borrower shall protect, defend, indemnify and hold Lender harmless from and against all out-of-pocket loss, cost, damage and expense (including all attorneys' fees, excise taxes and costs of correcting any prohibited transaction or obtaining an appropriate exemption) that Lender actually incurs as a result of Borrower's breach of this covenant. This covenant and indemnity shall survive the extinguishment of the lien of this Security Instrument by foreclosure or action in lieu thereof; furthermore, the foregoing indemnity shall supersede any limitations on Borrower's liability under any of the Loan Documents.

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25. **Loan Repayment and Defeasance.** Provided no Event of Default exists, this Security Instrument will be satisfied and discharged of record by Lender prior to the Maturity Date only in accordance with the terms and provisions set forth in Section 2.3 of the Loan Agreement.

26. **Governing Law.** WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS SECURITY INSTRUMENT, THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS SECTION AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN ALL MATTERS RELATING TO THIS SECURITY INSTRUMENT AND ALL OF THE OBLIGATIONS ARISING HEREUNDER. 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, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

27. **Exculpation.** The liability of Borrower hereunder is limited pursuant to Section 10.1 of the Loan Agreement.

28. **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 Lender any rights or remedies upon an Event of Default of Borrower which are more limited than the rights that would otherwise be vested in Lender under the Foreclosure Laws in the absence of said provision, Lender shall be vested with rights granted in the Foreclosure Laws to the full extent permitted by law.

29. **Advances.** Upon the occurrence of an Event of Default, Lender may, but need not, make any payment or perform any act herein required of Borrower in any form and manner deemed expedient. By way of illustration and not in limitation of the foregoing, Lender 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 attorneys' fees, and any other monies advanced by Lender 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 Borrower hereunder, Lender 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 Lender, and no inaction of Lender hereunder, shall ever be considered as a waiver of any right accruing to it on account of any default on the part of Borrower. All sums paid by Lender 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, **WITH THE PROVISIO THAT THE AGGREGATE AMOUNT OF THE INDEBTEDNESS SECURED HEREBY TOGETHER WITH**

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ALL SUCH ADDITIONAL SUMS ADVANCED SHALL NOT EXCEED TWO HUNDRED PERCENT (200%) OF THE AMOUNT OF THE ORIGINAL INDEBTEDNESS SECURED HEREBY.

30. **Insurance.** In the event that Borrower does not fulfill its requirements to carry the required insurance hereunder or under the other Loan Documents and/or to provide Lender with proof of such insurance, Lender may, but is not obligated to, purchase such insurance at Borrower's expense to protect Lender's interest in and to the Property. This insurance may, but need not protect Borrower's interest. The coverage obtained by Lender may not pay any claim that is made by or against Borrower in connection with the Property. If Borrower complies with the requirements hereunder and under the other Loan Documents and substantially provides evidence of the required insurance, hereunder, Borrower may cancel any of such insurance purchased by Lender. Borrower shall be responsible for any and all out-of-pocket costs of any insurance purchased by Lender hereunder, including interest thereon, and any other charges that Lender may actually incur in connection with the placement of such insurance, until the effective date of the cancellation of the insurance or payment of such amounts due. These costs, including interest and other charges, may be added to the outstanding principal balance of the Note, at Lender's option. The cost of such insurance may be more than the cost of insurance Borrower may be able to obtain on its own.

ILLINOIS COLLATERAL PROTECTION ACT. BORROWER IS HEREBY NOTIFIED PURSUANT TO 815 ILCS 180/1 ET. SEQ. AS FOLLOWS:

UNLESS YOU [BORROWER] PROVIDE US [LENDER] 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 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.

31. **Marshalling and Other Matters.** Borrower hereby expressly waives any and all rights of reinstatement and redemption in connection with any foreclosure of this Security Instrument on behalf of Borrower, 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. Borrower acknowledges that the Property does not constitute agricultural real estate or residential real estate as defined in 735 ILC 5/15-1201 and 5/15-1219. To the extent permitted by law, Borrower waives any rights of redemption pursuant to 735 ILC 5/15-1601(b). Borrower also hereby releases and waives all rights under and by virtue of the homestead exemption of the State of Illinois.

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32. **Expenses.** Without limiting any provision set forth herein, all expenses incurred by Lender, 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 secured 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., as amended.

33. **Business Loan.** Borrower stipulates, represents, warrants, affirms and agrees that the Loan secured hereby constitutes a "business loan" and a "loan secured by a mortgage on real estate" within the meaning of Sections 205/4(1) of Chapter 815 of the Illinois Compiled Statutes, as amended.

34. **Waiver.** Borrower 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 Borrower 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, Borrower 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. Borrower, 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 indebtedness secured hereby marshaled upon any foreclosure of this Security Instrument or of any other security for any of said indebtedness. Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender 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. Borrower, 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).

35. **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 Borrower or on behalf of Borrower, shall contain a subordination provision whereby the property manager forever and unconditionally subordinates to the lien of this Security Agreement 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 Lender's request, be recorded with the office of the recorder of deeds for the county in which the Property is located. Borrower's failure to cause any of the foregoing to occur shall constitute an Event of Default under this Security Instrument.

36. **Maximum Indebtedness.** The present amount of the Loan secured hereby is \$34,700,000.00; the maximum amount, including present and future obligations, which may be secured

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hereby at any one time is \$69,400,000.00, 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.

37. **Fixture Filing.** This Security Instrument constitutes a fixture filing in accordance with Section 810 ILCS 5/9-102.

38. **Variable Rate of Interest.** This Security Instrument secures certain notes and debt instruments, including the Note, which provide for variable adjustments to the interest rate.

39. **Provisions Subject to Applicable Law.** All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

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

BORROWER:

AMCAP NORTHPOINT II LLC,
a Delaware limited liability company

By: PG AmCap JV LLC,
a Delaware limited liability company,
its sole Member

By: AmCap CCN Manager LLC,
a Delaware limited liability company,
its Managing Member

By: AmCap Management LLC,
a Delaware limited liability company,
its Managing Member

By: AmCap, Incorporated,
a Connecticut corporation,
its Managing Member

By: J. Kaiser
Name: Jay Kaiser
Title: CEO

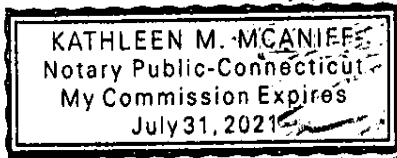
Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF Connecticut)
COUNTY OF Fairfield) SS

This instrument was acknowledged before me on June 7, 2017, by Jay Kaiser, who is the CEO of AmCap, Incorporated, a Connecticut corporation, the managing member of AmCap Management LLC, a Delaware limited liability company, the managing member of AmCap CCN Manager LLC, a Delaware limited liability company, the managing member of PG AmCap JV LLC, a Delaware limited liability company, the sole member of AMCAP NORTHPOINT II LLC, a Delaware limited liability company, and on behalf of such limited liability company.

Kathleen M. McAniff
Notary Public in the and for the State of CT
My Commission Expires:



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Exhibit "A"

[LEGAL DESCRIPTION]

LOT 1 OF NORTHGATE SHOPPING CENTER SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPT THAT PART DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1 THENCE SOUTHWARD ALONG THE WESTERLY LINE OF SAID LOT 1, BEING THE EASTERLY LINE OF ARLINGTON HEIGHTS ROAD;

SOUTH 1 DEGREES, 50 MINUTES, 41 SECONDS EAST, A DISTANCE OF 73.57 FEET; THENCE SOUTH 00 DEGREES, 17 MINUTES, 45 SECONDS EAST, A DISTANCE OF 470.00 FEET; THENCE SOUTH 13 DEGREES, 57 MINUTES, 59 SECONDS EAST, A DISTANCE OF 40.00 FEET; THENCE SOUTH 33 DEGREES, 05 MINUTES, 01 SECONDS EAST, A DISTANCE OF 37.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 33 DEGREES, 05 MINUTES, 01 SECONDS EAST, A DISTANCE OF 7.57 FEET, THENCE SOUTHEASTERLY ALONG A LINE BEING 50.00 FEET NORTHEASTERLY OF AND PARALLEL WITH THE CENTER LINE OF RAND ROAD, SOUTH 48 DEGREES, 24 MINUTES, 05 SECONDS EAST A DISTANCE OF 387.47 FEET; THENCE SOUTH 50 DEGREES 47 MINUTES 20 SECONDS EAST A DISTANCE OF 48.01 FEET; THENCE NORTH 48 DEGREES, 24 MINUTES, 05 SECONDS WEST, A DISTANCE OF 444.74 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.