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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



Doc# 1729613043 Fee \$94.00

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

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 10/23/2017 02:38 PM PG: 1 OF 2

The property identified as: **PIN:** 17-16-222-006-0000

Address:

Street: 231 SOUTH LASALLE STREET

Street line 2:

City: CHICAGO

State: IL

ZIP Code: 60604

Lender: BANK OF AMERICA, N.A., A NATIONAL BANKING ASSOCIATION

Borrower: BCSP 231 PROPERTY LLC, A DELAWARE LIMITED LIABILITY COMPANY

Loan / Mortgage Amount: \$137,022,899.00

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: 2DDC4AB0-1EA4-4FD2-A1E1-E7DEE531BFF5

Execution date: 10/4/2017

712460 30F4

CCRD REVIEW k

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**This Document Prepared By
and After Recording Return to:**

Rierner & Braunstein LLP
Three Center Plaza, 6th Floor
Boston, Massachusetts 02108
Attention: Kevin J. Lyons, Esq.

Address of Property:

231 S. LaSalle Street
Chicago, Illinois 60604

PIN Number(s):

17-16-222-006-0000 and 17-16-222-010-0000

MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING
(this "Mortgage")

FROM

BCSP 231 PROPERTY LLC,
a Delaware limited liability company

("Mortgagor")

TO

BANK OF AMERICA, N.A.,
a national banking association, as Administrative Agent
(together with its successors and assigns, "Mortgagee")

This document serves as a Fixture Filing under the Illinois Uniform Commercial Code, Chapter 810 ILCS 5/9-502(b), et. seq. Mortgagor's Organizational Identification Number is 5839918.

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

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "Mortgage") is made this 4th day of October, 2017, by BCSP 231 PROPERTY LLC, a Delaware limited liability company ("Mortgagor") in favor of BANK OF AMERICA, N.A., a national banking association, as administrative agent for Lenders (as hereinafter defined) (in such capacity, together with its successors and assigns, "Administrative Agent" or "Mortgagee").

ARTICLE 1

Definitions; Granting Clauses; Secured Indebtedness

Section 1.1 Principal Secured. This Mortgage secures the aggregate principal amount of up to ONE HUNDRED THIRTY-SEVEN MILLION TWENTY-TWO THOUSAND EIGHT HUNDRED NINETY-NINE AND 00/100 DOLLARS (\$137,022,899.00) plus such additional amounts as Mortgagee or any Lender may from time to time advance pursuant to the terms and conditions of this Mortgage and the other Loan Documents (the "Mortgage Amount"), with respect to an obligation secured by a lien or encumbrance prior to the lien of this Mortgage or for the protection of the lien of this Mortgage, together with interest thereon.

Section 1.2 Definitions. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement. In addition to other terms defined herein, each of the following terms shall have the meaning assigned to it, such definitions to be applicable equally to the singular and the plural forms of such terms and to all genders:

"Loan Agreement" means that certain Loan Agreement dated as of the date hereof, as may be amended, modified, restated, replaced or supplemented from time to time, among Borrower, BANK OF AMERICA, N.A., as lender (in such individual capacity "Bank of America") and the other lending institutions which become parties to the Loan Agreement (Bank of America and the other lending institutions which become parties to the Loan Agreement, each a "Lender" and collectively "Lenders").

"Lease" shall mean each existing or future lease, sublease (to the extent of Mortgagor's rights thereunder) or other agreement under the terms of which any Person has or acquires any right to occupy or use the Property, or any part thereof, or interest therein, and each existing or future guaranty of payment or performance thereunder, and all extensions, renewals, modifications and replacements of each such lease, sublease, agreement or guaranty.

"Rents" shall mean all of the rents, revenue, income, profits and proceeds derived and to be derived from the Property or arising from the use or enjoyment of any portion thereof or from any Lease, including but not limited to the proceeds from any negotiated lease termination or buyout of such Lease, liquidated damages following default under any such Lease, all proceeds payable under any policy of insurance covering loss of rents resulting from untenantability caused by damage to any part of the Property, all of Mortgagor's rights to recover monetary amounts from any tenant in bankruptcy including, without limitation, rights of recovery for use and occupancy and damage claims arising out of Lease defaults, including rejections, under any applicable Debtor Relief Law, together with any sums of money that may now or at any time hereafter be or become due and payable to Mortgagor by virtue of any and all royalties, overriding royalties, bonuses, delay rentals and any other amount of any kind or character arising under any and all present and all future oil, gas, mineral and mining leases covering the Property or any part thereof, and all proceeds and other amounts paid or owing to Mortgagor under or pursuant to any and all contracts and bonds relating to the construction or renovation of the Property.

Section 1.3 Granting Clause. In consideration of the provisions of this Mortgage and of the sum of TEN DOLLARS (\$10.00) cash in hand paid and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by Mortgagor, Mortgagor hereby MORTGAGES, WARRANTS, CONVEYS, GRANTS, ASSIGNS, RELEASES, TRANSFERS AND SETS OVER unto Mortgagee, for the benefit of the Lenders, all of Mortgagor's right, title and interest (now owned or hereafter acquired) in and to the following: (a) the

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real property described in Exhibit A which is attached hereto and incorporated herein by reference (the "Land") together with: (i) any and all buildings, structures, improvements, alterations or appurtenances now or hereafter situated or to be situated on the Land (collectively, the "Improvements"); and (ii) (1) all streets, roads, alleys, easements, rights-of-way, licenses, rights of ingress and egress, vehicle parking rights and public places, existing or proposed, abutting, adjacent, used in connection with or pertaining to the Land or the Improvements; (2) any strips or gores between the Land and abutting or adjacent properties; and (3) all water and water rights, timber, crops and mineral interests on or pertaining to the Land (the Land, Improvements and other rights, titles and interests referred to in the foregoing clause (a) being herein sometimes collectively called the "Premises"); (b) all fixtures, equipment, systems, machinery, furniture, furnishings, appliances, inventory, goods, building, renovation and construction materials, supplies, and articles of personal property, of every kind and character, tangible and intangible (including software embedded therein), now owned or hereafter acquired by Mortgagor, which are now or hereafter attached to or situated in, on or about the Land or the Improvements, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (whether delivered to the Land or stored elsewhere) for use or installation in or on the Land or the Improvements, and all renewals and replacements of, substitutions for and additions to the foregoing (the properties referred to in this clause (b) being herein sometimes collectively called the "Accessories," all of which are hereby declared to be permanent accessions to the Land); (c) all (i) plans and specifications for the Improvements; (ii) in each case to the extent mortgageable or assignable, Mortgagor's rights under all insurance policies (or additional or supplemental coverage related thereto, including from an insurance provider meeting the requirements of the Loan Documents or from or through any state or federal government sponsored program or entity), Swap Contracts, contracts and agreements for the design, renovation, construction, operation or inspection of the Improvements and other contracts and general intangibles (including but not limited to payment intangibles, trademarks, trade names, goodwill, software and symbols) related to the Premises or the Accessories or the operation thereof; (iii) deposits and deposit accounts arising from or related to the Premises or the Accessories (including but not limited to Mortgagor's rights in tenants' security deposits (subject to the rights of tenants under Leases with respect thereto), deposits with respect to utility services to the Premises, and any deposits, deposit accounts or reserves hereunder, under any other Loan Documents (hereinafter defined) for taxes, insurance or otherwise), rebates or refunds of impact fees or other taxes, assessments or charges, money, instruments, documents, promissory notes and chattel paper (whether tangible or electronic) arising from or related to the Premises or the Accessories, and any account or deposit account from which Mortgagor may from time to time authorize Mortgagee and/or any Lender to debit and/or credit payments due with respect to the Loan or any Swap Contract (if applicable), all rights to the payment of money from Mortgagee and/or any Lender under any Swap Contract (if applicable), and all accounts, deposit accounts and general intangibles, including payment intangibles, described in any Swap Contract (if applicable); (iv) in each case to the extent mortgageable or assignable, permits, licenses, franchises, certificates, development rights, commitments and rights for utilities, and other rights and privileges obtained in connection with the Premises or the Accessories; (v) leases, master leases, subleases and all rents, royalties, bonuses, issues, profits, revenues and other benefits of the Premises and the Accessories (without derogation of Article 3 hereof); (vi) as-extracted collateral produced from or allocated to the Land including, without limitation, oil, gas and other hydrocarbons and other minerals and all products processed or obtained therefrom, and the proceeds thereof; and (vii) engineering, accounting, title, legal, and other technical or business data concerning the Property which are in the possession of Mortgagor or in which Mortgagor can otherwise grant a security interest; (d) all (i) accounts and proceeds (cash or non-cash and including payment intangibles) of or arising from the properties, rights, titles and interests referred to above in this Section 1.3, including but not limited to proceeds of any sale, lease or other disposition thereof, proceeds of each policy of insurance (or additional or supplemental coverage related thereto, including from an insurance provider meeting the requirements of the Loan Documents or from or through any state or federal government sponsored program or entity) relating thereto (including premium refunds), proceeds of the taking thereof or of any rights appurtenant thereto, including change of grade of streets, curb cuts or other rights of access, by condemnation, eminent domain or transfer in lieu thereof for public or quasi-public use under any Law, and proceeds arising out of any damage thereto; (ii) all letter-of-credit rights (whether or not the letter of credit is evidenced by a writing) Mortgagor now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.3; and (iii) all commercial tort claims Mortgagor now has or hereafter acquires relating to the properties, rights, titles and interests referred to in this Section 1.3; and (e) other interests of every kind and character which Mortgagor now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in this Section 1.3 and all property used or useful in connection therewith, including but not limited to rights of ingress and egress and remainders, reversions and reversionary rights or interests; and this conveyance shall include, and the lien and security interest created hereby

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shall encumber and extend to, all other or additional title, estates, interests or rights which are now owned or may hereafter be acquired by Mortgagor in or to the Land; TO HAVE AND TO HOLD the foregoing rights, interests and properties, and all rights, estates, powers and privileges appurtenant thereto (herein collectively called the "Property"), unto Mortgagee, its successors and assigns, on behalf of the Lenders, subject to the terms, provisions and conditions herein set forth, to secure the obligations of Mortgagor under the Loan Agreement, the Note and the other Loan Documents and all other indebtedness and matters defined as "Secured Indebtedness" in Section 1.5 of this Mortgage; PROVIDED, HOWEVER, that if Mortgagor shall promptly pay or cause to be paid to Mortgagee and to Lenders the principal sum, including all additional advances and all other sums payable by Mortgagor to Mortgagee and to Lenders under the terms of the Loan Documents and shall perform or cause to be performed all the other terms, conditions, agreements and provisions contained in the Loan Documents, all without fraud or delay or deduction or abatement of anything or for any reason, then this Mortgage and the estate hereby granted shall cease, terminate and become void.

Notwithstanding the foregoing, "Property" shall not include, and the lien and security interest granted herein shall not attach to, any asset or property of Mortgagor of any nature to the extent that (and for so long as) any applicable law or regulation prohibits the creation of a lien and security interest thereon.

Section 1.4 Security Interest. Mortgagor hereby grants to Mortgagee, on behalf of each Lender, a security interest in all of Mortgagor's right, title and interest, whether now owned or hereafter acquired, in and to all (i) accounts, (ii) chattel paper, (iii) documents, (iv) general intangibles, (v) goods (including, without limitation, all fixtures, inventory and all equipment), (vi) all supporting obligations and (vii) proceeds and products of any and all of the foregoing (each of the foregoing terms having the meaning ascribed thereto in the Uniform Commercial Code as in effect from time to time in the State of Illinois and items (i) through (vii), collectively, the "Collateral") to secure the Secured Indebtedness. In addition to its rights hereunder or otherwise, Mortgagee shall have all of the rights of a secured party under the Illinois Uniform Commercial Code, as in effect from time to time, or under the Uniform Commercial Code in force, from time to time, in any other state to the extent the same is applicable Law. The foregoing authorization includes Mortgagor's irrevocable authorization for Mortgagee at any time and from time to time to file, at Mortgagor's expense, any initial financing statements and amendments thereto that are required or permitted in the filing office (as defined in the applicable Uniform Commercial Code) to perfect a security interest in the Collateral, including initial financing statements or amendments thereto containing a description or indication of the collateral as "all personal property, whether now owned or hereafter acquired or arising" or "all personal property, whether now owned or hereafter acquired or arising, including, without limitation, all goods that are or are to become fixtures" or words of similar meaning.

Notwithstanding the foregoing, a lien and security interest is not granted in and "Collateral" shall not include any of Mortgagor's right, title and interest in any assets or property of Mortgagor of any nature to the extent that (and for so long as) any applicable law or regulation prohibits the creation of a lien and security interest thereon.

Section 1.5 Secured Indebtedness, Note, Loan Documents, Other Obligations. This Mortgage is made to secure and enforce the payment and performance of the following promissory notes, obligations, indebtedness, duties and liabilities and all renewals, extensions, supplements, increases, and modifications thereof in whole or in part from time to time (collectively the "Secured Indebtedness"): (a) the Note; (b) all interest, Additional Interest, indebtedness, liabilities, duties, covenants, promises and other obligations whether joint or several, direct or indirect, fixed or contingent, liquidated or unliquidated, and the cost of collection of all such amounts, owed by Mortgagor to Mortgagee and/or any Lender now or hereafter incurred or arising pursuant to or permitted by the provisions of the Note, this Mortgage, the Loan Agreement or any other document now or hereafter evidencing, governing, guaranteeing, securing or otherwise executed in connection with the loan evidenced by the Note, including but not limited to any loan or credit agreement, letter of credit or reimbursement agreement, any Swap Contract or interest rate cap or other agreement between Mortgagor and Mortgagee and/or any Lender, or among Mortgagor, Mortgagee and/or any Lender and any other party or parties, pertaining to the repayment or use of the proceeds of the loan evidenced by the Note; and (c) all other loans and future advances made by Mortgagee and/or any Lender to Mortgagor, and all other debts, obligations and liabilities of Mortgagor of every kind and character now or hereafter existing in favor of Mortgagee and/or any Lender, whether direct or indirect, primary or secondary, joint or several, fixed or contingent, secured or unsecured, and whether originally payable to Mortgagee, any Lender, or to a third party and subsequently acquired by Mortgagee and/or any Lender, so long as the

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instruments evidencing the foregoing are executed by Mortgagor and expressly state that they are to be secured by this Mortgage; provided, however, and notwithstanding the foregoing provisions of this clause (c), this clause (c) shall not operate or be effective to constitute or require any assumption or payment by any Person, in any way, of any debt of any other Person to the extent that the same would violate or exceed the limit provided in any applicable usury or other Law.

ARTICLE 2

Representations, Warranties and Covenants

Section 2.1 Mortgagor represents, warrants, and covenants as follows:

(a) Payment and Performance. Mortgagor will make due and punctual payment of the Secured Indebtedness in accordance with the terms of the Loan Documents. Mortgagor will timely and properly perform and comply with all of the covenants, agreements, and conditions imposed upon it by this Mortgage and the other Loan Documents.

(b) Title and Permitted Encumbrances. Mortgagor has, in Mortgagor's own right, and Mortgagor covenants to maintain good and marketable title to the Premises, is lawfully seized and possessed of the Property and every part thereof, and has the right to convey the same, free and clear of all liens, charges, claims, security interests, and encumbrances except for Permitted Exceptions. Mortgagor, and Mortgagor's successors and assigns, will warrant generally and forever defend title to the Property, subject as aforesaid, to Mortgagee and its successors or substitutes and assigns, on behalf of the Lenders, against the claims and demands of all Persons claiming or to claim the same or any part thereof. Mortgagor will punctually pay, perform, observe and keep, in all material respects, all covenants, obligations and conditions in or pursuant to any Permitted Exception. Inclusion of any matter as a Permitted Exception does not constitute approval or waiver by Mortgagee or any Lender of any existing or future violation or other breach thereof by Mortgagor, by the Property or otherwise. No part of the Property constitutes all or any part of the principal residence of Mortgagor if Mortgagor is an individual. If any right or interest of Mortgagee and/or any Lender in the Property or any part thereof shall be endangered or questioned or shall be attacked directly or indirectly, Mortgagee and Lenders, or any of them (whether or not named as a party to legal proceedings with respect thereto), are hereby authorized and empowered to take such steps as in their reasonable discretion may be proper for the defense of any such legal proceedings or the protection of such right or interest of Mortgagee and/or any Lender, including but not limited to the employment of independent counsel, the prosecution or defense of litigation, and the compromise or discharge of adverse claims. All reasonably incurred expenditures so made of every kind and character shall be a demand obligation (which obligation Mortgagor hereby promises to pay) owing by Mortgagor to Mortgagee or Lenders (as the case may be), and the party (Mortgagee or Lender, as the case may be) making such expenditures shall be subrogated to all rights of the Person receiving such payment.

(c) Taxes and Other Impositions. Mortgagor will pay, or cause to be paid, all taxes, assessments and other charges or levies imposed upon or against or with respect to the Property or the ownership, use, occupancy or enjoyment of any portion thereof, or any utility service thereto, before the same become delinquent, including but not limited to all real estate taxes assessed against the Property or any part thereof, and shall deliver promptly to Mortgagee such evidence of the payment thereof as Mortgagee may require, provided, however, that Mortgagor shall have the right to pay any such taxes under protest or to otherwise contest any such taxes provided that and so long as (i) Mortgagor has complied with any statutory conditions precedent to bringing such a challenge, including, if required, paying the amount in good faith admitted as due and owing, so that such contest has the effect of preventing the collection of such taxes so contested and also preventing the sale or forfeiture of the Property or any part thereof or any interest therein, (ii) Mortgagor has notified Mortgagee in advance of its intent to contest such taxes, (iii) unless the taxes being contested have previously been paid, at Mortgagee's request, Mortgagor has deposited security in form and amount reasonably satisfactory to Mortgagee, and increases the amount of such security so deposited promptly after Mortgagee's reasonable request therefor, (iv) the Property or any part thereof or interest therein is not in foreseeable danger or jeopardy of being sold or forfeited and (v) proceedings to collect such taxes are in fact stayed or not otherwise occurring. If Mortgagor fails to pay such taxes or timely commence such contest or, having commenced to contest the same, Mortgagor shall thereafter fail to prosecute such contest in good faith or with due diligence, shall fail to meet the above-described requirements, or, upon adverse conclusion of

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any such contest, shall fail to pay such taxes, Mortgagee may, at its election (but shall not be required to), pay and discharge any such taxes, and any interest or penalty thereon, and any amounts so expended by Mortgagee and/or Lenders shall be deemed to constitute advances under the Loan (even if the total amount of disbursements would exceed the face amount of the Note); provided, however, that Mortgagee shall give Mortgagor not less than ten (10) Business Days' notice of its election to pay and discharge any such taxes so long as delaying such payment for ten (10) Business Days will not, in the reasonable judgment of Mortgagee, place the Property or any part thereof or interest therein in foreseeable danger or jeopardy of being sold or forfeited.

(d) Intentionally Omitted.

(e) Intentionally Omitted.

(f) Intentionally Omitted.

(g) Compliance with Laws. The Property and the use, operation and maintenance thereof and all activities thereon do and shall at all times comply, in all material respects, with all applicable Laws. Except as otherwise may be set forth in any Title Insurance or Survey delivered to Administrative Agent, the Land and Improvements are not, and shall not be, dependent on any other property or premises or any interest therein other than the Property to fulfill any requirement of any Law. Mortgagor shall not, by act or omission, permit any building or other improvement not subject to the lien of this Mortgage to rely on the Property or any interest therein to fulfill any requirement of any Law. No improvement upon or use of any part of the Property constitutes an illegal nonconforming use under any zoning Law or similar Law or ordinance. Mortgagor has obtained and shall preserve in force all requisite zoning, utility, building, health, environmental and operating permits from the governmental authorities having jurisdiction over the Property. Notwithstanding the foregoing, Mortgagor shall have the right to contest the validity or applicability of such Laws so long as (a) Mortgagor notifies Administrative Agent that it intends to contest the same, (b) Mortgagor is diligently contesting the same by appropriate legal proceedings in good faith and at its own expense, (c) such contest would not be reasonably likely to result in any criminal or material civil liability on the part of Mortgagor, any other Borrower Party or the Property for which such Person is not insured, (d) at Administrative Agent's request, Mortgagor deposits security in form and amount reasonably satisfactory to Administrative Agent, and increases the amount of such security so deposited promptly after Administrative Agent's reasonable request therefor and (e) the Property or any part thereof or interest therein is not in reasonably foreseeable danger or jeopardy of being sold or forfeited.

If Mortgagor receives a notice or claim from any Governmental Authority that the Property, or any use, activity, operation or maintenance thereof or thereon, is not in compliance with any Law, Mortgagor will promptly furnish a copy of such notice or claim to Mortgagee. Mortgagor has received no notice and has no knowledge of any such noncompliance.

(h) Maintenance, Repair and Restoration. Subject to the renovation of the Improvements in accordance with the Loan Agreement, Mortgagor will keep the Property in first class order, repair, operating condition and appearance (subject to ordinary wear and tear), causing all necessary repairs, renewals, replacements, additions and improvements to be promptly made, and will not allow any of the Property to be misused, abused or wasted or to deteriorate. Notwithstanding the foregoing, Mortgagor will not, without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld, (i) remove from the Property any fixtures or personal property covered by this Mortgage except (A) such as is replaced by Mortgagor by an article of substantially equal suitability and value, owned by Mortgagor, free and clear of any lien or security interest (except that created by this Mortgage and Permitted Exceptions) or leased by Mortgagor pursuant to an equipment lease entered into in the ordinary course of business, (B) if such item is removed temporarily for maintenance and repair or (C) if such item is obsolete and/or no longer necessary for the use and operation of the Property, or (ii) make any structural alteration to the Property or any other material alteration thereto which impairs the value thereof other than renovation of the Improvements and tenant improvement work in accordance with the terms of the Loan Agreement. If any act or occurrence of any kind or nature (including any condemnation or any casualty for which insurance was not obtained or obtainable) shall result in damage to or loss or destruction of the Property, Mortgagor shall give prompt notice thereof to Mortgagee and Mortgagor shall, subject to Section 2.20 of the Loan Agreement, promptly, at Mortgagee's

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sole cost and expense and regardless of whether insurance or condemnation proceeds (if any) shall be available or sufficient for the purpose, secure the Property as necessary and commence and continue diligently to completion to restore, repair, replace and rebuild the Property as nearly as possible to its value, condition and character immediately prior to the damage, loss or destruction.

(i) No Other Liens. Mortgagor will not, without the prior written consent of Mortgagee, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any mortgage, voluntary or involuntary lien, whether statutory, constitutional or contractual, security interest, encumbrance or charge, or conditional sale or other title retention document, against or covering the Property, or any part thereof, other than the Permitted Exceptions, regardless of whether the same are expressly or otherwise subordinate to the lien or security interest created in this Mortgage, and should any of the foregoing become attached hereafter in any manner to any part of the Property without the prior written consent of Mortgagee, Mortgagor will cause the same to be promptly discharged and released. Mortgagor will own (or lease, pursuant to equipment leases entered into in the ordinary course of business) all parts of the Property. If Mortgagee consents to the voluntary grant by Mortgagor of any mortgage, lien, security interest, or other encumbrance (hereinafter called "Subordinate Lien") covering any of the Property or if the foregoing prohibition is determined by a court of competent jurisdiction to be unenforceable as to a Subordinate Lien, any such Subordinate Lien shall contain express covenants to the effect that: (1) the Subordinate Lien is unconditionally subordinate to this Mortgage and all Leases; (2) if any action (whether judicial or pursuant to a power of sale) shall be instituted to foreclose or otherwise enforce the Subordinate Lien, no tenant of any of the Leases shall be named as a party defendant, and no action shall be taken that would terminate any occupancy or tenancy without the prior written consent of Mortgagee; (3) Rents, if collected by or for the holder of the Subordinate Lien, shall be applied first to the payment of the Secured Indebtedness then due and expenses incurred in the ownership, operation and maintenance of the Property in such order as Mortgagee may determine, prior to being applied to any indebtedness secured by the Subordinate Lien; (4) written notice of default under the Subordinate Lien and written notice of the commencement of any action (whether judicial or pursuant to a power of sale) to foreclose or otherwise enforce the Subordinate Lien or to seek the appointment of a receiver for all or any part of the Property shall be given to Mortgagee with or immediately after the occurrence of any such default or commencement; and (5) neither the holder of the Subordinate Lien, nor any purchaser at foreclosure thereunder, nor anyone claiming by, through or under any of them shall succeed to any of Mortgagor's rights hereunder without the prior written consent of Mortgagee.

(j) Operation of Property. Mortgagor will operate the Property in a good and workmanlike manner and in accordance, in all material respects, with all Laws and will pay all fees or charges of any kind in connection therewith. Mortgagor will not use or occupy or conduct any activity on, or allow the use or occupancy of or the conduct of any activity on, the Property in any manner which violates, in any material respect, any Law or which constitutes a public or private nuisance or which makes void, voidable or cancelable, or materially increases the premium of, any insurance then in force with respect thereto. Mortgagor will not initiate or permit any zoning reclassification of the Property or seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in such a manner which would result in such use becoming an illegal nonconforming use under applicable zoning ordinances or other Law. Except for Permitted Exceptions, Mortgagor will not impose any easement, restrictive covenant or encumbrance upon the Property, execute or file any subdivision plat or condominium declaration affecting the Property or consent to the annexation of the Property to any municipality, without the prior written consent of Mortgagee. Mortgagor will preserve, protect, renew, extend and retain all material rights and privileges granted for or applicable to the Property. Without the prior written consent of Mortgagee, there shall be no drilling or exploration for or extraction, removal or production of any mineral, hydrocarbon, gas, natural element, compound or substance (including sand and gravel) from the surface or subsurface of the Land regardless of the depth thereof or the method of mining or extraction thereof. Mortgagor will cause all debts and liabilities of any character (including without limitation all debts and liabilities for labor, material and equipment (including software embedded therein) and all debts and charges for utilities servicing the Property) incurred in the construction, renovation, maintenance, operation and development of the Property to be promptly paid or discharged, unless Mortgagor is contesting such debt or charge in good faith.

(k) Intentionally Omitted.

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(l) Status of Mortgagor; Suits and Claims; Loan Documents. Mortgagor is not a “foreign person” within the meaning of the Internal Revenue Code of 1986, as amended, Sections 1445 and 7701 (i.e. Mortgagor is not a non-resident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined therein and in any regulations promulgated thereunder). Mortgagor’s exact legal name is correctly set forth at the end of this Mortgage. If Mortgagor is not an individual, Mortgagor is an organization of the type and (if not an unregistered entity) is incorporated in or organized under the Laws of the state specified in the introductory paragraph of this Mortgage. If Mortgagor is an unregistered entity (including, without limitation, a general partnership) it is organized under the Laws of the state specified in the introductory paragraph of this Mortgage. Mortgagor will not cause or permit any change to be made in its name, identity (including its trade name or names), or corporate or partnership structure, unless Mortgagor shall have notified Mortgagee in writing of such change at least thirty (30) days prior to the effective date of such change, and shall have first taken all action required by Mortgagee for the purpose of further perfecting or protecting the lien and security interest of Mortgagee in the Property. In addition, Mortgagor shall not change its corporate or partnership structure without first obtaining the prior written consent of Mortgagee, which consent shall not be unreasonably withheld. Mortgagor’s principal place of business and chief executive office, and the place where Mortgagor keeps its books and records, including recorded data of any kind or nature, regardless of the medium of recording including, without limitation, software, writings, plans, specifications and schematics concerning the Property, has for the preceding four months (or, if less, the entire period of the existence of Mortgagor) been and will continue to be (unless Mortgagor notifies Mortgagee of any change in writing at least thirty (30) days prior to the date of such change) the address of Mortgagor set forth at the end of this Mortgage. If Mortgagor is an individual, Mortgagor’s principal residence has for the preceding four months been and will continue to be (unless Mortgagor notifies Mortgagee of any change in writing at least 30 days prior to the date of such change) the address of the principal residence of Mortgagor set forth at the end of this Mortgage. Mortgagor’s organizational identification number, if any, assigned by the state of incorporation or organization is correctly set forth on the first page of this Mortgage. Mortgagor shall promptly notify Mortgagee (i) of any change of its organizational identification number, or (ii) if Mortgagor does not now have an organization identification number and later obtains one, of such organizational identification number.

(m) Certain Environmental Matters. Mortgagor shall comply with the terms and covenants of the Environmental Agreement.

(n) Intentionally Omitted.

(o) Intentionally Omitted.

(p) Intentionally Omitted.

(q) Intentionally Omitted.

(r) Taxes on Note or Mortgage. In the event of the enactment after this date of any Law of any governmental entity applicable to Mortgagee, any Lender, the Note, the Property or this Mortgage deducting from the value of property for the purpose of taxation any lien or security interest thereon, or imposing upon Mortgagee and/or any Lender the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the Laws relating to the taxation of deeds of trust or mortgages or security agreements or debts secured by deeds of trust or mortgages or security agreements or the interest of Mortgagee or secured party in the property covered thereby, or the manner of collection of such taxes, so as to affect this Mortgage or the Secured Indebtedness or Mortgagee and/or any Lender, then, and in any such event, Mortgagor, within ten (10) Business Days of demand by Mortgagee, shall pay such taxes, assessments, charges or liens, or reimburse Mortgagee and/or any such Lender therefor; provided, however, that if in the opinion of counsel for Mortgagee (i) it might be unlawful to require Mortgagor to make such payment or (ii) the making of such payment would reasonably be expected to result in the imposition of interest beyond the maximum amount permitted by Law, and in either case the amount of such payment is material, then and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare all of the Secured Indebtedness to be and become due and payable sixty (60) days from the giving of such notice without the payment of any prepayment fee.

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(s) Statement Concerning Note or Mortgage. Mortgagor and Mortgagee shall at any time and from time to time (but no more frequently than three (3) times in any twelve (12) month period, unless Mortgagee has requested such certification during the continuance of a Default, as hereinafter defined) furnish within ten (10) Business Days of request by Mortgagee or Mortgagor, as applicable, a written statement in such form as may be reasonably required by the requesting party stating that (i) the Note, this Mortgage and the other Loan Documents are valid and binding obligations of Mortgagor, enforceable against Mortgagor in accordance with their terms, except as enforceability may be limited by Debtor Relief Laws (as certified by Mortgagor only); (ii) the unpaid principal balance of the Note; (iii) the date to which interest on the Note is paid; (iv) the Note, this Mortgage and the other Loan Documents have not been released, subordinated or modified; and (v) there are no offsets or defenses against the enforcement of the Note, this Mortgage or any other Loan Document (as certified by Mortgagor only). If any of the foregoing statements are untrue, such party, alternatively, shall specify the reasons therefor.

(t) Intentionally Omitted.

(u) Letter-of-Credit Rights. If Mortgagor is at any time a beneficiary under a letter of credit (whether or not the letter of credit is evidenced by a writing) relating to the properties, rights, titles and interests referred to in Section 1.3 of this Mortgage now or hereafter issued in favor of Mortgagor, and if a Default exists, Mortgagor shall promptly notify Mortgagee thereof and, at the request and option of Mortgagee, Mortgagor shall, pursuant to an agreement in form and substance satisfactory to Mortgagee, either (i) arrange for the issuer and any confirmer of such letter of credit to consent to an assignment to Mortgagee, on behalf of the Lenders, of the proceeds of any drawing under the letter of credit or (ii) arrange for Mortgagee, on behalf of the Lenders, to become the transferee beneficiary of the letter of credit, with Mortgagee agreeing, in each case, that the proceeds of any drawing under the letter of credit are to be applied as provided in Section 5.2 of this Mortgage.

(v) Intentionally Omitted.

Section 2.2 Performance by Mortgagee on Mortgagor's Behalf. Mortgagor agrees that, if Mortgagor fails to perform any act or to take any action which under any Loan Document Mortgagor is required to perform or take, or to pay any money which under any Loan Document Mortgagor is required to pay, in each case, beyond any applicable notice or cure period, and whether or not the Secured Indebtedness has been accelerated, to the extent permitted by applicable law, upon notice to Mortgagor, Mortgagee, in Mortgagor's name or its own name, on behalf of the Lenders, may, but shall not be obligated to, subject to the rights of tenants at the Property and to the terms of such tenant's Leases, perform or cause to be performed such act or take such action or pay such money, and any expenses so incurred by Mortgagee and/or any Lender, with interest thereon at the Default Rate set forth in the Loan Agreement, and any money so paid by Mortgagee and/or any Lender shall be a demand obligation owing by Mortgagor to Mortgagee (which obligation Mortgagor hereby promises to pay), shall be a part of the Secured Indebtedness, and Mortgagee, on behalf of the Lenders, upon making such payment, shall be subrogated to all of the rights of the Person receiving such payment. Mortgagee and its designees shall have the right, subject to the rights of tenants at the Property and to the terms of such tenant's Leases, to enter upon the Property at any time and from time to time for any such purposes. No such payment or performance by Mortgagee and/or any Lender shall waive or cure any default or waive any right, remedy or recourse of Mortgagee. Any such payment may be made by Mortgagee and/or any Lender in reliance on any statement, invoice or claim without inquiry into the validity or accuracy thereof. Each amount due and owing by Mortgagor to Mortgagee and/or any Lender pursuant to this Mortgage shall bear interest, from the date such amount becomes due until paid, at the rate per annum provided in the Loan Agreement for interest on past due principal owed on the Note but never in excess of the maximum nonusurious amount permitted by applicable Law, which interest shall be payable to Mortgagee, on behalf of the Lenders, within ten (10) Business Days of demand; and all such amounts, together with such interest thereon, shall automatically and without notice be a part of the Secured Indebtedness. The amount and nature of any expense by Mortgagee and/or any Lender hereunder and the time when paid shall be fully established by the certificate of Mortgagee and/or any Lender or any of Mortgagee's and/or any Lender's officers or agents.

Section 2.3 Absence of Obligations of Mortgagee and Lenders with Respect to Property. Notwithstanding anything in this Mortgage to the contrary, including, without limitation, the definition of "Property" and/or the provisions of Article 3 hereof, (i) to the extent permitted by applicable Law, the Property is composed of Mortgagor's rights, title and interests therein but not Mortgagor's obligations, duties or liabilities pertaining thereto,

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(ii) Mortgagee and the Lender neither assume nor shall have any obligations, duties or liabilities in connection with any portion of the items described in the definition of "Property" herein, prior to obtaining title to such Property, whether by foreclosure sale, the granting of a deed in lieu of foreclosure or otherwise, and (iii) Mortgagee may, at any time prior to the acquisition of title to any portion of the Property as above described, advise any party in writing as to the extent of Mortgagee's interest therein and/or expressly disaffirm in writing any rights, interests, obligations, duties and/or liabilities with respect to such Property or matters related thereto. Without limiting the generality of the foregoing, it is understood and agreed that neither Mortgagee nor any Lender shall have any obligations, duties or liabilities prior to acquisition of title to any portion of the Property, as lessee under any lease or purchaser or seller under any contract or option unless Mortgagee elects otherwise by written notification.

Section 2.4 Authorization to File Financing Statements; Power of Attorney. Mortgagor hereby authorizes Mortgagee at any time and from time to time to file any initial financing statements, amendments thereto and continuation statements as authorized by applicable Law, required by Mortgagee to establish or maintain the validity, perfection and priority of the security interests granted in this Mortgage. For purposes of such filings, Mortgagor agrees to furnish any information reasonably requested by Mortgagee promptly upon request by Mortgagee. Mortgagor hereby irrevocably constitutes and appoints Mortgagee and any officer or agent of Mortgagee, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of Mortgagor or in Mortgagor's own name to execute in Mortgagor's name any such documents and to otherwise carry out the purposes of this Section 2.4, to the extent that Mortgagor's authorization above is not sufficient. To the extent permitted by Law, Mortgagor hereby ratifies all acts said attorney-in-fact shall lawfully do, have done in the past or cause to be done in the future by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable.

ARTICLE 3

Assignment of Rents and Leases

Section 3.1 Assignment. Mortgagor hereby assigns to Mortgagee, on behalf of the Lenders, all Rents and all of Mortgagor's rights in and under all Leases. So long as no Default has occurred and is continuing, Mortgagor shall have a license (which license shall terminate automatically and without further notice upon the occurrence of a Default) to collect, but not more than thirty (30) days prior to accrual, the Rents under the Leases and, where applicable, subleases, such Rents to be held in trust for Mortgagee, on behalf of the Lenders, and to otherwise deal with all Leases as permitted by the Loan Documents. Each month, provided no Default has occurred and is continuing, Mortgagor may retain such Rents as were collected that month. Upon the revocation of such license, to the extent permitted by applicable law, all Rents shall be paid directly to Mortgagee and not through Mortgagor, all without the necessity of any further action by Mortgagee and/or any Lender, including, without limitation, any action to obtain possession of the Land, Improvements or any other portion of the Property or any action for the appointment of a receiver. Mortgagor hereby authorizes and directs the tenants under the Leases to pay Rents to Mortgagee upon written demand by Mortgagee, which demand may only be sent by Mortgagee during the continuance of a Default, without further consent of Mortgagor, without any obligation of such tenants to determine whether a Default has in fact occurred and regardless of whether Mortgagee has taken possession of any portion of the Property, and the tenants may rely upon any written statement delivered by Mortgagee to the tenants. Any such payments to Mortgagee shall constitute payments to Mortgagor under the Leases, and Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact to do all things, while a Default is continuing, which Mortgagor might otherwise do with respect to the Property and the Leases thereon, including, without limitation, (i) collecting Rents with or without suit and applying the same, less expenses of collection, to any of the obligations secured hereunder or to expenses of operating and maintaining the Property (including reasonable reserves for anticipated expenses), at the option of Mortgagee, all in such manner as may be determined by Mortgagee, or at the option of Mortgagee, holding the same as security for the payment of the Secured Indebtedness, (ii) leasing, in the name of Mortgagor, the whole or any part of the Property which may become vacant, and (iii) employing agents therefor and paying such agents reasonable compensation for their services. The curing of such Default, unless other Defaults also then exist, shall entitle Mortgagor to recover its aforesaid license to do any such things which Mortgagor might otherwise do with respect to the Property and the Leases thereon and to again collect such Rents. The powers and rights granted in this paragraph shall be in addition to the other remedies herein provided for upon the occurrence of a Default and may be exercised independently of or concurrently with any of said remedies.

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Nothing in the foregoing shall be construed to impose any obligation upon Mortgagee and/or any Lender to exercise any power or right granted in this paragraph or to assume any liability under any Lease of any part of the Property and no liability shall attach to Mortgagee and/or any Lender for failure or inability to collect any Rents under any such Lease. The assignment contained in this Section shall become null and void upon the release of this Mortgage.

Section 3.2 Covenants, Representations and Warranties Concerning Leases and Rents. Mortgagor covenants, represents and warrants that: (a) Mortgagor has good title to, and is the owner of the entire landlord's interest in, the Leases and Rents hereby assigned and authority to assign them; (b) all Leases are valid and enforceable, except as enforceability may be limited by Debtor Relief Laws, and in full force and effect, and are unmodified except as stated therein; (c) except as may be disclosed in any of the tenant estoppel certificates delivered to Mortgagee ("Tenant Estoppels"), neither Mortgagor, nor to Mortgagor's knowledge, any tenant in the Property is in material default under its Lease; (d) unless otherwise stated in a Permitted Exception, no Rents or Leases have been or will be assigned, mortgaged, pledged or otherwise encumbered and no other Person has or will acquire any right, title or interest in such Rents or Leases; (e) except as set forth in the Leases or in any of the Tenant Estoppels, no Rents have been waived, released, discounted, set off or compromised; (f) except as stated in the Leases or in any of the Tenant Estoppels, Mortgagor has not received any funds or deposits from any tenant for which credit has not already been made on account of accrued Rents; (g) Mortgagor shall perform all of its material obligations under the Leases and enforce, in a commercially reasonable manner, the tenants' material obligations under the Leases to the extent enforcement is prudent under the circumstances; (h) Mortgagor will comply with the terms of the Loan Agreement in respect of all Leases, including, without limitation, Exhibit G thereto, (j) there shall be no merger of the leasehold estates, created by the Leases, with the fee estate of the Land without the prior written consent of Mortgagee; and (k) to the extent permitted by applicable Law, Mortgagee may at any time and from time to time by specific written instrument intended to the purpose, unilaterally subordinate the lien of this Mortgage to any Lease, without joinder or consent of, or notice to, Mortgagor, any tenant or any other Person, and notice is hereby given to each tenant under a Lease of such right to subordinate. No such subordination shall constitute a subordination to any lien or other encumbrance, whenever arising, or improve the right of any junior lienholder; and nothing herein shall be construed as subordinating this Mortgage to any Lease.

Section 3.3 Intentionally Omitted.

Section 3.4 No Liability of Mortgagee or Lenders. Mortgagee's acceptance of this assignment shall not be deemed to constitute Mortgagee and/or any Lender a "mortgagee in possession," nor obligate Mortgagee and/or any Lender to appear in or defend any proceeding relating to any Lease or to the Property, or to take any action hereunder, expend any money, incur any expenses, or perform any obligation or liability under any Lease, or assume any obligation for any deposit delivered to Mortgagor by any tenant and not as such delivered to and accepted by Mortgagee. Neither Mortgagee nor any Lender shall be liable for any injury or damage to Person or property in or about the Property, or for Mortgagee's failure to collect or to exercise diligence in collecting Rents, but shall be accountable only for Rents that it shall actually receive. Neither the assignment of Leases and Rents nor enforcement of Mortgagee's rights regarding Leases and Rents (including collection of Rents) nor possession of the Property by Mortgagee nor Mortgagee's consent to or approval of any Lease (nor all of the same), shall render Mortgagee and/or any Lender liable on any obligation under or with respect to any Lease or constitute a continuation of, or any subordination to, any Lease, occupancy, use or option.

If Mortgagee seeks or obtains any judicial relief regarding Rents or Leases, the same shall in no way prevent the concurrent or subsequent employment of any other appropriate rights or remedies nor shall same constitute an election of judicial relief for any foreclosure or any other purpose. Mortgagee and Lenders neither have nor assume any obligations as lessor or landlord with respect to any Lease. The rights of Mortgagee under this Article 3 shall be cumulative of all other rights of Mortgagee and/or Lenders under the Loan Documents or otherwise.

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ARTICLE 4

Default

Section 4.1 Defaults. It shall be a "Default" under this Mortgage if any of the events or circumstances specified in Section 4.1 of the Loan Agreement shall occur.

ARTICLE 5

Remedies

Section 5.1 Certain Remedies. If a Default shall occur and be continuing, Mortgagee may without the consent of, and shall at the direction of, the "Required Lenders" (as defined in the Loan Agreement) as may be applicable, exercise any one or more of the following remedies, without notice (unless notice is required hereunder or by applicable statute), to the extent permitted by applicable Law:

(a) Acceleration. Mortgagee may at any time and from time to time declare any or all of the Secured Indebtedness immediately due and payable and may terminate any and all Swap Contracts (other than any interest rate cap agreement(s)). Upon any such declaration, such Secured Indebtedness shall thereupon be immediately due and payable, and such Swap Contracts shall immediately terminate (other than any interest rate cap agreement(s)), without presentment, demand, protest, notice of protest, notice of acceleration or of intention to accelerate or any other notice or declaration of any kind, all of which are hereby expressly waived by Mortgagor.

(b) Enforcement of Assignment of Rents. In addition to the rights of Mortgagee under Article 3 hereof, prior or subsequent to taking possession of any portion of the Property or taking any action with respect to such possession, Mortgagee may: (1) collect and/or sue for the Rents in Mortgagee's own name, give receipts and releases therefor, and after deducting all expenses of collection, including reasonable attorneys' fees and expenses, apply the net proceeds thereof to the Secured Indebtedness in such manner and order as Mortgagee may elect and/or to the operation and management of the Property, including the payment of management, brokerage and attorney's fees and expenses; and (2) require Mortgagor to transfer all security deposits and records thereof to Mortgagee together with original counterparts of the Leases.

(c) Mortgagee's Right to Enter and Take Possession, Operate and Apply Income.

(i) Mortgagee may demand that Mortgagor surrender the actual possession of the Property and upon such demand, Mortgagor shall forthwith surrender same to Mortgagee and, to the extent permitted by Law, Mortgagee itself, or by such officers or agents as it may appoint, may enter and take possession of all of the Property and may exclude Mortgagor and its agents and employees wholly therefrom.

(ii) If Mortgagor shall for any reason fail to surrender or deliver the Property or any part thereof after Mortgagee's demand, Mortgagee may obtain a judgment or order conferring on Mortgagee the right to immediate possession or requiring Mortgagor to deliver immediate possession to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents.

(iii) Mortgagee may from time to time: (A) continue and complete renovation and/or construction of, hold, store, use, operate, manage and control the Property and conduct the business thereof; (B) make all reasonably necessary maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional personal property; (C) insure or keep the Property insured; (D) exercise all the rights and powers of Mortgagor in its name or otherwise with respect to the same; and (E) enter into agreements with others (including, without limitation, new Leases or amendments, extensions, or cancellations to existing Leases) all as Mortgagee from time to time may determine in its sole discretion. Mortgagor hereby constitutes and irrevocably appoints Mortgagee its true and lawful attorney-in-fact, which appointment is coupled with an interest, with full power of substitution, and empowers said attorney or attorneys in the name of Mortgagor, but at the option

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of said attorney-in-fact, to do any and all acts and execute any and all agreements that Mortgagee may deem necessary or proper to implement and perform any and all of the foregoing if Mortgagor shall fail to do so within ten (10) days after written request by Mortgagee.

(d) Uniform Commercial Code. Mortgagee may exercise any or all of its rights and remedies under the Uniform Commercial Code as adopted by the State of Illinois as in effect from time to time (or under the Uniform Commercial Code in force from time to time in any other state to the extent the same is applicable Law) or other applicable Law as well as all other rights and remedies possessed by Mortgagee, all of which shall be cumulative. Mortgagee is hereby authorized and empowered to enter the Property or other place where the collateral may be located without legal process, and to take possession of such personal property without notice or demand, which hereby are waived to the maximum extent permitted by the Laws of the State of Illinois. Upon demand by Mortgagee, Mortgagor shall make such personal property available to Mortgagee at a place reasonably convenient to Mortgagee. Mortgagee may proceed under the Uniform Commercial Code as to all or any part of such personal property, and in conjunction therewith may exercise all of the rights, remedies and powers of a secured creditor under the Uniform Commercial Code. Any notification required by the Uniform Commercial Code shall be deemed reasonably and properly given if sent in accordance with the Notice provisions of this Mortgage at least ten (10) Business Days before any sale or other disposition of such personal property. Mortgagee may choose to dispose of some or all of the property, in any combination consisting of both personal property and real property, in one or more public or private sales to be held in accordance with the Law and procedures applicable to real property, as permitted by Article 9 of the Uniform Commercial Code. Mortgagor agrees that such a sale of such personal property together with real property constitutes a commercially reasonable sale of such personal property.

(e) Lawsuits. Mortgagee may proceed by a suit or suits in equity or at Law, whether for collection of the indebtedness secured hereby, the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Property under the judgment or decree of any court or courts of competent jurisdiction. To the extent permitted by applicable Laws, Mortgagor hereby assents to the passage of a decree for the sale of the Property by any equity court having jurisdiction.

(f) Foreclosure and Other Remedies. Mortgagee may:

- (1) foreclose the lien hereof for such indebtedness or part thereof and pursue all remedies afforded to a holder under and pursuant to the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq., as amended from time to time (the "Act").
- (2) in any case in which under the provisions of this Mortgage Mortgagee has a right to institute foreclosure proceedings, whether before or after the whole principal sum secured hereby is declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after judgment thereunder, and at all times until confirmation of sale, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take and upon Mortgagee's request to the court to be placed in actual possession of, Mortgagee shall be placed in possession of the Property or any part thereof, personally, or by its agent or attorneys as provided in Subsections (b)(2) and (c) of Section 1701 of the Act. In such event, Mortgagee in its discretion may, with or without force and with or without process of law, enter upon and take and maintain, or may apply to the court in which a foreclosure is pending to be placed in, possession of all or any part of said Property, together with all documents, books, records, papers and accounts of Mortgagor or then owner of the Property relating thereto, and may exclude Mortgagor, its agents or servants, wholly therefrom and may, 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, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the avails, Rents, issues, and profits of the Property,

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including actions for the recovery of rent, actions in forcible detainer and actions in distress for Rent, and with full power: (a) to cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any Lease or sublease which is then subordinate to the lien hereof; (c) 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 indebtedness hereunder 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; (d) to enter into any management, leasing or brokerage agreements covering the Property; (e) to make all necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Property as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) 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. Without limiting the generality of the foregoing provisions of this Section, Mortgagee shall also have all power, authority and duties as provided in Section 15-1703 of the Act.

- (3) institute proceedings for the complete or partial foreclosure hereof pursuant to applicable Law; or
- (4) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at Law for the specific performance of any covenant, condition or agreement in the Note, the Loan Agreement or herein, or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy or otherwise as Mortgagee shall elect.

Any sale made hereunder may be as an entirety or in such parcels as Mortgagee may request. To the extent permitted by applicable Law, any sale may be adjourned by announcement at the time and place appointed for such sale without further notice except as may be required by Law. If the proceeds of such sale of less than the whole of the Property shall be less than the aggregate of the Secured Indebtedness, this Mortgage and the lien hereof shall remain in full force and effect as to the unsold portion of the Property just as though no sale had been made and the rights of Mortgagee to foreclose hereunder shall also apply to any future sales. A sale may cover not only the Property but also personal property and other interests which are a part of the Property, or any part thereof, as a unit and as a part of a single sale, or the sale may be of any part of the Property separately from the remainder of the Property. After each sale, Mortgagee shall make to the purchaser or purchasers at such sale good and sufficient conveyances, conveying the property so sold to the purchaser or purchasers in fee simple, subject to the Permitted Exceptions (and to such leases and other matters, if any), and shall receive the proceeds of said sale or sales and apply the same as herein provided. In the event any sale hereunder is not completed or is defective in the opinion of Mortgagee, such sale shall not exhaust the rights hereunder and Mortgagee shall have the right to cause a subsequent sale or sales to be made hereunder. Any and all statements of fact or other recitals made in any deed or deeds or other conveyances given by Mortgagee as to nonpayment of the Secured Indebtedness or as to the occurrence of any default, or as to Mortgagee having declared all of said indebtedness to be due and payable, or as to the request to sell, or as to notice of time, place and terms of sale and the properties to be sold having been duly given, or as to any other act or thing having been duly done by Mortgagee and/or any Lender shall be taken as prima facie evidence of the truth of the facts so stated and recited.

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(g) Receiver. Upon, or at any time prior or after, the filing of any complaint to foreclose the lien of this Mortgage or instituting any other foreclosure of the liens and security interests provided for in this Mortgage or any other legal proceedings under this Mortgage, Mortgagee may, at Mortgagee's sole option, make application to a court of competent jurisdiction for appointment of a receiver pursuant to Section 15-1702 of the Act for all or any part of the Property, as a matter of strict right and without notice to Mortgagor, but nothing herein is construed to deprive Mortgagee of any other right, remedy or privilege Mortgagee may now have under the law to have a receiver appointed; provided that the appointment of such receiver, trustee or other appointee by virtue of any court order, statute or regulation shall not impair or in any manner prejudice the rights of Mortgagee to receive payment of all of the Rents, issues, deposits and profits pursuant to other terms and provisions set forth in this Mortgage. Such appointment may be made either before or after sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the Secured Indebtedness; without regard to the value of the Property at such time and whether or not the same is then occupied as a homestead, without bond being required of the applicant; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Act, including the power to take possession, control and care of the Property and to collect all Rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the Secured Indebtedness, and in the event of a sale and a deficiency where Mortgagor has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Mortgagor or its administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such Rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Property during the whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing Leases and make new Leases of the Property or any part thereof, 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, 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 such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser.

(h) Termination of Commitment to Lend. Mortgagee and Lenders may terminate any commitment or obligation to lend or disburse funds under any Loan Document or enter into any other credit arrangement to or for the benefit of Mortgagor.

(i) Other Rights and Remedies. Mortgagee and Lenders, respectively, may exercise any and all other rights and remedies which Mortgagee and/or Lenders may have under the Loan Documents, or at Law or in equity or otherwise.

Section 5.2 Proceeds of Foreclosure. The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the provisions of Subsection (c) of Section 15-1512 of the Act. The judgment of foreclosure or order confirming the sale shall provide (after application pursuant to Subsections (a) and (b) of said Section 15-1512) for application of sale proceeds in the following order of priority: first, all items not covered by the provisions of said Subsections (a) and (b), which under the terms hereof constitute Secured Indebtedness additional to that evidenced by the Note, with interest thereon as herein provided; and second, all principal and interest remaining unpaid on the Note.

Section 5.3 Remedies Cumulative and Concurrent. No right, power or remedy of Mortgagee as provided in the Note, this Mortgage, or the other Loan Documents is intended to be exclusive of any other right, power, or remedy of Mortgagee and/or any Lender, but each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power or remedy available to Mortgagee and/or any Lender now or hereafter existing at Law or in equity and may be pursued separately, successively or together against Mortgagor, or any endorser, co-maker, surety or guarantor of the Secured Indebtedness, or the Property or any part thereof, or any one or more of them, at the sole discretion of Mortgagee. The failure of Mortgagee and/or any Lender to exercise any such right, power or remedy shall in no event be construed as a waiver or release thereof.

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Section 5.4 Waiver, Delay or Omission. No waiver of any Default hereunder shall extend to or affect any subsequent or any other Default then existing, or impair any rights, powers or remedies consequent thereon, and no delay or omission of Mortgagee to exercise any right, power or remedy shall be construed to waive any such Default or to constitute acquiescence therein.

Section 5.5 Credit of Mortgagee. To the maximum extent permitted by the Laws of the State of Illinois, upon any sale made under or by virtue of this Article, Mortgagee may bid for and acquire the Property, or any part thereof, and in lieu of paying cash therefor may apply to the purchase price, any portion of or all of the unpaid Secured Indebtedness in such order as Mortgagee may elect.

Section 5.6 Sale. Any sale or sales made under or by virtue of this Article shall operate to divest all the estate, right, title, interest, claim and demand whatsoever at Law or in equity, of Mortgagor and all Persons, except tenants pursuant to Leases entered into in accordance with the Loan Documents, claiming by, through or under Mortgagor in and to the properties and rights so sold, whether sold to Mortgagee or to others.

Section 5.7 Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition, seizure of the Property by any Governmental Authority, or other judicial proceedings affecting Mortgagor, any endorser, co-maker, surety, or guarantor of the Secured Indebtedness, or any of their respective properties, Mortgagee (including on behalf of Lenders), to the extent permitted by Law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claim allowed in such proceedings for the entire unpaid Secured Indebtedness at the date of the institution of such proceedings, and for any additional amounts which may become due and payable after such date.

Section 5.8 Waivers and Other Matters.

(a) Mortgagor acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act. To the maximum extent permitted by law, Mortgagor hereby waives any and all rights to reinstatement and redemption from sale under any judgment of foreclosure of this Mortgage on behalf of Mortgagor and on behalf of each and every person acquiring any interest in or title to the Property of any nature whatsoever, subsequent to the date of this Mortgage. The foregoing waiver of all rights to reinstatement and redemption is made pursuant to the provisions of Section 15-1601(b) of the Act.

(b) Mortgagor hereby waives and releases, for itself and anyone claiming through, by, or under it, to the maximum extent permitted by the Laws of the State of Illinois:

(i) unless specifically required herein or as specifically required by the Loan Agreement or the other Loan Documents, all notices of default, or Mortgagee's (or any Lender's) actual exercise of any option or remedy under the Loan Documents, or otherwise, and

(ii) all benefit that might accrue to Mortgagor by virtue of any present or future Law exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy or sale on execution, or providing for any appraisalment, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment,

(iii) any right to have the Property marshalled.

Section 5.9 Discontinuance of Proceedings. If Mortgagee shall have proceeded to enforce any right under any Loan Document and such proceedings shall have been discontinued or abandoned for any reason, then except as may be provided in any written agreement between Mortgagor and Mortgagee providing for the discontinuance or abandonment of such proceedings, Mortgagor and Mortgagee shall be restored to their former positions and the rights, remedies and powers of Mortgagee shall continue as if no such proceedings had been instituted.

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Section 5.10 Mortgagee's Actions. Mortgagee may, at any time without notice to any Person and without consideration, subject to the terms of the Loan Agreement, do or refrain from doing any or all of the following actions, and neither Mortgagor, any endorser, co-maker, surety or guarantor of the Secured Indebtedness, nor any other Person (hereinafter in this Section collectively referred to as the "Obligor") now or hereafter liable for the payment and performance of the Secured Indebtedness shall be relieved from the payment and performance thereof, unless specifically released in writing by Mortgagee: (a) renew, extend or modify the terms of the Note, this Mortgage and the other Loan Documents, or any of them, in accordance with the terms of the Loan Agreement; (b) forbear or extend the time for the payment or performance of any or all of the Secured Indebtedness; (c) apply payments by any Obligor to the reduction of the unpaid Secured Indebtedness in such manner, in such amounts, and at such times and in such order and priority as Mortgagee may see fit; (d) release any Obligor; (e) substitute or release in whole or in part the Property or any other collateral or any portion thereof now or hereafter held as security for the Secured Indebtedness without affecting, disturbing or impairing in any manner whatsoever the validity and priority of the lien of this Mortgage upon the Property which is not released or substituted, or the validity and priority of any security interest of Mortgagee in such other collateral which is not released or substituted; (f) subordinate the lien of this Mortgage or the lien of any other security interest in any other collateral now or hereafter held as security for the Secured Indebtedness; (g) join in the execution of a plat or replat of the Land (provided, however, notwithstanding the foregoing, Mortgagee will join in such plat or replat of the Land so long as such plat or replat is acceptable to Mortgagee); (h) join in and consent to the filing of a declaration of condominium or declaration of restrictive covenants regarding all or any part of the Land; (i) consent to the granting of any easement on the Land; and (j) generally deal with any obligor or any other party as Mortgagee may see fit.

Section 5.11 Other Remedies. Mortgagee shall have the right from time to time to protect, exercise and enforce any legal or equitable remedy against Mortgagor provided under the Loan Documents or by applicable Laws.

Section 5.12 Conflicts. In the event that any provisions in this Article 5 are in violation of the Act or other applicable Illinois statutes and laws ("Other Applicable Laws"), Mortgagee's exercise of its rights and remedies hereunder shall in all respects comply with and be limited by the Act and Other Applicable Laws.

ARTICLE 6

Miscellaneous

Section 6.1 Scope of Mortgage. This Mortgage is a mortgage on both real and personal property, a security agreement, an assignment of rents and leases, a financing statement and fixture filing and a collateral assignment, and also covers proceeds and fixtures.

Section 6.2 Effective as a Financing Statement. This Mortgage shall be effective as a financing statement filed as a fixture filing with respect to all fixtures included within the Property and is to be filed for record in the real estate records of each county where any part of the Property (including said fixtures) is situated. This Mortgage shall also be effective as a financing statement covering as-extracted collateral (including oil and gas), accounts and general intangibles under the Illinois Uniform Commercial Code, as in effect from time to time, and the Uniform Commercial Code, as in effect from time to time, in any other state where the Property is situated which will be financed at the wellhead or minehead of the wells or mines located on the Property and is to be filed for record in the real estate records of each county where any part of the Property is situated. This Mortgage shall also be effective as a financing statement covering any other Property and may be filed in any other appropriate filing or recording office. A carbon, photographic or other reproduction of this Mortgage or of any financing statement relating to this Mortgage shall be sufficient as a financing statement for any of the purposes referred to in this Section. For this purpose, the following information is set forth:

- (a) Name and Address of Debtor:

BCSP 231 PROPERTY LLC
c/o Beacon Capital Partners, LLC

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200 State Street, 5th Floor
Boston, Massachusetts 02109

(b) Name and Address of Secured Party:

BANK OF AMERICA, N.A.
225 Franklin Street
Boston, Massachusetts 02110

(c) This document covers goods which are or are to become fixtures.

(d) Debtor is the record owner of the Property.

(e) Debtor's chief executive office is located in the Commonwealth of Massachusetts.

(f) Debtor's state of formation is Delaware.

(g) Debtor's exact legal name is as set forth in the first paragraph of this Mortgage.

(h) Debtor's organizational identification number is 6451275.

(i) Debtor agrees that:

(i) Where Collateral is in possession of a third party, Mortgagor will, upon Mortgagee's reasonable request, join with Mortgagee in notifying the third party of Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding such Collateral for the benefit of Mortgagee;

(ii) Upon Mortgagee's reasonable request, Mortgagor will cooperate with Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and

(iii) Until the Secured Indebtedness is paid in full, Mortgagor will not change the state where it is located or change its company name without giving Mortgagee at least thirty (30) days prior written notice in each instance.

Section 6.3 Intentionally Omitted.

Section 6.4 Waiver by Mortgagee. Mortgagee may at any time and from time to time by a specific writing intended for the purpose: (a) waive compliance by Mortgagor with any covenant herein made by Mortgagor to the extent and in the manner specified in such writing; (b) consent to Mortgagor's doing any act which hereunder Mortgagor is prohibited from doing, or to Mortgagor's failing to do any act which hereunder Mortgagor is required to do, to the extent and in the manner specified in such writing; (c) release any part of the Property or any interest therein from the lien and security interest of this Mortgage, without the joinder of Mortgagee; or (d) release any party liable, either directly or indirectly, for the Secured Indebtedness or for any covenant herein or in any other Loan Document, without impairing or releasing the liability of any other party. No such act shall in any way affect the rights or powers of Mortgagee and/or any Lender hereunder except to the extent specifically agreed to by Mortgagee in such writing.

Section 6.5 No Impairment of Security. The lien, security interest and other security rights of Mortgagee and/or any Lender hereunder or under any other Loan Document shall not be impaired by any indulgence, moratorium or release granted by Mortgagee including, but not limited to, any renewal, extension or modification which Mortgagee and/or any Lender may grant with respect to any Secured Indebtedness, or any surrender, compromise, release, renewal, extension, exchange or substitution which Mortgagee and/or any Lender may grant in respect of the Property, or any part thereof or any interest therein, or any release or indulgence granted to any

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endorser, guarantor or surety of any Secured Indebtedness. The taking of additional security by Mortgagee and/or any Lender shall not release or impair the lien, security interest or other security rights of Mortgagee hereunder or affect the liability of Mortgagor or of any endorser, guarantor or surety, or improve the right of any junior lienholder in the Property (without implying hereby Mortgagee's consent to any junior lien).

Section 6.6 Acts Not Constituting Waiver by Mortgagee. Mortgagee may waive any default without waiving any other prior or subsequent default. Mortgagee may remedy any default without waiving the default remedied. Neither failure by Mortgagee and/or any Lender to exercise, nor delay by Mortgagee and/or any Lender in exercising, nor discontinuance of the exercise of any right, power or remedy (including but not limited to the right to accelerate the maturity of the Secured Indebtedness or any part thereof) upon or after any default shall be construed as a waiver of such default or as a waiver of the right to exercise any such right, power or remedy at a later date. No single or partial exercise by Mortgagee and/or any Lender of any right, power or remedy hereunder shall exhaust the same or shall preclude any other or further exercise thereof, and every such right, power or remedy hereunder may be exercised at any time and from time to time. No modification or waiver of any provision hereof nor consent to any departure by Mortgagor therefrom shall in any event be effective unless the same shall be in writing and signed by Mortgagee and then such waiver or consent shall be effective only in the specific instance, for the purpose for which given and to the extent therein specified. No notice to nor demand on Mortgagor in any case shall of itself entitle Mortgagor to any other or further notice or demand in similar or other circumstances. Remittances in payment of any part of the Secured Indebtedness other than in the required amount in immediately available U.S. funds shall not, regardless of any receipt or credit issued therefor, constitute payment until the required amount is actually received by Mortgagee in immediately available U.S. funds and shall be made and accepted subject to the condition that any check or draft may be handled for collection in accordance with the practice of the collecting bank or banks. Acceptance by Mortgagee and/or any Lender of any payment in an amount less than the amount then due on any Secured Indebtedness shall be deemed an acceptance on account only and shall not in any way excuse the existence of a default hereunder notwithstanding any notation on or accompanying such partial payment to the contrary.

Section 6.7 Mortgagor's Successors. If the ownership of the Property or any part thereof becomes vested in a Person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest with reference to this Mortgage and to the Secured Indebtedness in the same manner as with Mortgagor, without in any way vitiating or discharging Mortgagor's liability hereunder or for the payment of the indebtedness or performance of the obligations secured hereby. No transfer of the Property, no forbearance on the part of Mortgagee and/or any Lender, and no extension of the time for the payment of the Secured Indebtedness given by Mortgagee and/or any Lender shall operate to release, discharge, modify, change or affect, in whole or in part, the liability of Mortgagor hereunder for the payment of the indebtedness or performance of the obligations secured hereby or the liability of any other Person hereunder for the payment of the indebtedness secured hereby. Nothing in this Section or elsewhere in this Mortgage shall be construed to imply Mortgagee's consent to any transfer of the Property.

Section 6.8 Intentionally Omitted.

Section 6.9 Subrogation to Existing Liens; Vendor's Lien. To the extent that proceeds of the Note are used to pay indebtedness secured by any outstanding lien, security interest, charge or prior encumbrance against the Property, such proceeds have been advanced by Mortgagee and/or Lenders at Mortgagor's request, and Mortgagee, on behalf of the Lenders, shall be subrogated to any and all rights, security interests and liens owned by any owner or lender of such outstanding liens, security interests, charges or encumbrances, however remote, irrespective of whether said liens, security interests, charges or encumbrances are released, and all of the same are recognized as valid and subsisting and are renewed and continued and merged herein to secure the Secured Indebtedness, but the terms and provisions of this Mortgage shall govern and control the manner and terms of enforcement of the liens, security interests, charges and encumbrances to which Mortgagee, on behalf of the Lenders, is subrogated hereunder. It is expressly understood that, in consideration of the payment of such indebtedness by Mortgagee and/or any Lender, Mortgagor hereby waives and releases all demands and causes of action for offsets and payments in connection with the said indebtedness. If all or any portion of the proceeds of the loan evidenced by the Note or of any other secured indebtedness has been advanced for the purpose of paying the purchase price for all or a part of the Property, no vendor's lien is waived; and Mortgagee, on behalf of the Lenders, shall have, and is hereby granted, a

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vendor's lien on the Property as cumulative additional security for the secured indebtedness. Mortgagee may foreclose under this Mortgage or under the vendor's lien without waiving the other or may foreclose under both.

Section 6.10 Application of Payments to Certain Indebtedness. If any part of the Secured Indebtedness cannot be lawfully secured by this Mortgage or if any part of the Property cannot be lawfully subject to the lien and security interest hereof to the full extent of such indebtedness, then all payments made shall be applied on said indebtedness first in discharge of that portion thereof which is not secured by this Mortgage.

Section 6.11 Nature of Loan; Compliance with Usury Laws. The loan evidenced by the Note is being made solely for the purpose of carrying on or acquiring a business or commercial enterprise. It is the intent of Mortgagor, Mortgagee, Lenders, and all other parties to the Loan Documents to conform to and contract in strict compliance with applicable usury Law from time to time in effect. All agreements between Mortgagee, Lenders, and Mortgagor (or any other party liable with respect to any indebtedness under the Loan Documents) are hereby limited by the provisions of this Section which shall override and control all such agreements, whether now existing or hereafter arising. In no way, nor in any event or contingency (including but not limited to prepayment, default, demand for payment, or acceleration of the maturity of any obligation), shall the interest taken, reserved, contracted for, charged, chargeable, or received under this Mortgage, the Note or any other Loan Document or otherwise, exceed the maximum nonusurious amount permitted by applicable Law (the "Maximum Amount"). If, from any possible construction of any document, interest would otherwise be payable in excess of the Maximum Amount, any such construction shall be subject to the provisions of this Section and such document shall ipso facto be automatically reformed and the interest payable shall be automatically reduced to the Maximum Amount, without the necessity of execution of any amendment or new document. If Mortgagee and/or any Lender shall ever receive anything of value which is characterized as interest under applicable Law and which would apart from this provision be in excess of the Maximum Amount, an amount equal to the amount which would have been excessive interest shall, without penalty, be applied to the reduction of the principal amount owing on the Secured Indebtedness in the inverse order of its maturity and not to the payment of interest, or refunded to Mortgagor or the other payor thereof if and to the extent such amount which would have been excessive exceeds such unpaid principal. The right to accelerate maturity of the Note or any other Secured Indebtedness does not include the right to accelerate any interest which has not otherwise accrued on the date of such acceleration, and neither Mortgagee nor any Lender intends to charge or receive any unearned interest in the event of acceleration. All interest paid or agreed to be paid to Mortgagee and/or any Lender shall, to the extent permitted by applicable Law, be amortized, prorated, allocated and spread throughout the full stated term (including any renewal or extension) of such indebtedness so that the amount of interest on account of such indebtedness does not exceed the Maximum Amount. As used in this Section, the term "applicable Law" shall mean the Laws of the Commonwealth of Massachusetts or the federal Laws of the United States applicable to this transaction, whichever Laws allow the greater interest, as such Laws now exist or may be changed or amended or come into effect in the future.

Section 6.12 Releases.

(a) Release of Mortgage. Subject to Section 6.31, if all of the Secured Indebtedness is paid as the same becomes due and payable and all of the covenants, warranties, undertakings and agreements made in this Mortgage are kept and performed, and all Swap Contracts (other than any interest rate cap agreement(s)) and all other obligations, if any, of Mortgagee and/or each Lender for further advances have been terminated, then, and in that event only, all rights under this Mortgage shall terminate (except to the extent expressly provided herein with respect to indemnifications, representations and warranties and other rights which are to continue following the release hereof) and the Property shall become wholly clear of the liens, security interests, conveyances and assignments evidenced hereby, and such liens and security interests shall be released by Mortgagee in due form at Mortgagor's cost. Without limitation, all provisions herein for indemnity of Mortgagee and/or Lenders shall survive discharge of the Secured Indebtedness, the termination of any and all Swap Contracts and any foreclosure, release or termination of this Mortgage.

(b) Partial Releases; No Release in Default. Partial releases of the lien of this Mortgage shall be made in accordance with the terms and provisions of the Loan Agreement or as otherwise may be consented to by Mortgagee.

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(c) Effect of Partial Release. Mortgagee may, regardless of consideration, cause the release of any part of the Property from the lien of this Mortgage without in any manner affecting or impairing the lien or priority of this Mortgage as to the remainder of the Property.

(d) Release Fee. If permitted by applicable Law Mortgagor shall pay to Mortgagee, in addition to all of Mortgagee's reasonable costs and expenses including reasonable attorneys' fees and costs, at the time of each partial or complete release of the lien of this Mortgage, a release fee in the amount of Twenty-Five and No/100 Dollars (\$25.00) if the release instrument is delivered to Mortgagee for execution or Fifty and No/100 Dollars (\$50.00), if Mortgagee is required to prepare the release instrument. In addition, Mortgagor shall pay to Mortgagee a fee in the amount of Twenty-Five and No/100 Dollars (\$25.00) for each other document or instrument which Mortgagor requires Mortgagee to execute.

Section 6.13 Notices. All notices, requests, consents, demands and other communications required or which any party desires to give hereunder shall be given in accordance with the terms of Section 6.3 of the Loan Agreement.

Section 6.14 Invalidity of Certain Provisions. A determination that any provision of this Mortgage is unenforceable or invalid shall not affect the enforceability or validity of any other provision and the determination that the application of any provision of this Mortgage to any Person or circumstance is illegal or unenforceable shall not affect the enforceability or validity of such provision as it may apply to other Persons or circumstances.

Section 6.15 Gender; Titles; Construction. Within this Mortgage, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires. Titles appearing at the beginning of any subdivisions hereof are for convenience only, do not constitute any part of such subdivisions, and shall be disregarded in construing the language contained in such subdivisions. The use of the words "herein," "hereof," "hereunder" and other similar compounds of the word "here" shall refer to this entire Mortgage and not to any particular Article, Section, paragraph or provision. The term "Person" and words importing persons as used in this Mortgage shall include firms, associations, partnerships (including limited partnerships), joint ventures, trusts, corporations, limited liability companies and other legal entities, including public or governmental bodies, agencies or instrumentalities, as well as natural persons.

Section 6.16 Reporting Compliance. Mortgagor agrees to comply with any and all reporting requirements applicable to Mortgagor, the Property and the transaction evidenced by the Note and secured by this Mortgage which are set forth in any Law of any governmental authority, including but not limited to The International Investment Survey Act of 1976, The Agricultural Foreign Investment Disclosure Act of 1978, The Foreign Investment in Real Property Tax Act of 1980 and the Tax Reform Act of 1984 and further agrees upon request of Mortgagee to furnish Mortgagee and Lenders with evidence of such compliance.

Section 6.17 Mortgagee's Consent. Except where otherwise expressly provided herein or in the Loan Agreement, in any instance hereunder where the approval, consent or the exercise of judgment of Mortgagee is required or requested, (a) the granting or denial of such approval or consent and the exercise of such judgment shall be within the sole discretion of Mortgagee, and Mortgagee shall not, for any reason or to any extent, be required to grant such approval or consent or exercise such judgment in any particular manner, regardless of the reasonableness of either the request or Mortgagee's judgment, and (b) no approval or consent of Mortgagee shall be deemed to have been given except by a specific writing intended for the purpose and executed by an authorized representative of Mortgagee.

Section 6.18 Mortgagor. Unless the context clearly indicates otherwise, as used in this Mortgage, "Mortgagor" means Mortgagor named in the introductory paragraph hereof. The obligations of Mortgagor hereunder shall be joint and several. If any Mortgagor, or any signatory who signs on behalf of any Mortgagor, is a corporation, partnership or other legal entity, Mortgagor represents and warrants to Mortgagee and Lenders that this instrument is executed, acknowledged and delivered by Mortgagor's duly authorized representatives. If Mortgagor is an individual, no power of attorney granted by Mortgagor herein shall terminate on Mortgagor's disability.

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Section 6.19 Execution; Recording. This Mortgage has been executed in several counterparts, all of which are identical, and all of which counterparts together shall constitute one and the same instrument. The date or dates reflected in the acknowledgments hereto indicate the date or dates of actual execution of this Mortgage, but such execution is as of the date shown on the first page hereof, and for purposes of identification and reference the date of this Mortgage shall be deemed to be the date reflected on the first page hereof. Mortgagor will cause this Mortgage and all amendments and supplements thereto and substitutions therefor and all financing statements and continuation statements relating thereto to be recorded, filed, re-recorded and refiled in such manner and in such places as Mortgagee shall reasonably request and will pay all such recording, filing, re-recording and refiling taxes, fees and other charges.

Section 6.20 Successors and Assigns. The terms, provisions, covenants and conditions hereof shall be binding upon Mortgagor, and the heirs, devisees, representatives, successors and assigns of Mortgagor, and shall inure to the benefit of Mortgagee, on behalf of the Lenders, and shall constitute covenants running with the Land. All references in this Mortgage to Mortgagor shall be deemed to include all such heirs, devisees, representatives, successors and assigns of Mortgagor.

Section 6.21 Modification or Termination. The Loan Documents may only be modified or terminated by a written instrument or instruments intended for that purpose and executed by the party against which enforcement of the modification or termination is asserted. Any alleged modification or termination which is not so documented shall not be effective as to any party.

Section 6.22 No Partnership, Etc. The relationship between Mortgagee and Mortgagor is solely that of mortgagee and mortgagor. Neither Mortgagee nor any Lender has any fiduciary or other special relationship with Mortgagor. Nothing contained in the Loan Documents is intended to create any partnership, joint venture, association or special relationship between Mortgagor and Mortgagee and/or any Lender or in any way make Mortgagee and/or any Lender a co-principal with Mortgagor with reference to the Property. All agreed contractual duties between or among Mortgagee and/or any Lender and Mortgagor and are set forth herein and in the other Loan Documents and any additional implied covenants or duties are hereby disclaimed. Any inferences to the contrary of any of the foregoing are hereby expressly negated.

Section 6.23 Intentionally Omitted.

Section 6.24 Applicable Law.

(a) Substantial Relationship. The parties agree that the Commonwealth of Massachusetts has a substantial relationship to the parties and to the underlying transactions embodied by the Loan Documents.

(b) Place of Delivery. Mortgagor agrees to furnish to Mortgagee at Mortgagee's address specified in the Loan Agreement all further instruments, certifications and documents to be furnished hereunder, if any.

(c) Governing Law. This Mortgage and the obligations of Mortgagor hereunder that affect the Property shall be governed by and interpreted and determined in accordance with the laws of the Commonwealth of Massachusetts.

(d) Exceptions. Notwithstanding the foregoing choice of law:

(i) the creation, perfection and priority of the security interests and liens created under this Mortgage and the other Loan Documents, the procedures governing the enforcement by Mortgagee of its foreclosure and other remedies against Mortgagor under this Mortgage and under the other Loan Documents with respect to the Property or other assets situated in the State of Illinois, including by way of illustration, but not in limitation, actions for foreclosure, for injunctive relief or for the appointment of a receiver shall be governed by the laws of the State of Illinois. In addition, the creation of the security interests and liens created under this Mortgage in the Collateral shall be governed by the laws of the State of Illinois. Notwithstanding anything to the contrary in this Mortgage, the appointment of a receiver with

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respect to the Property in enforcement of the remedies of the Mortgage shall be only to the extent permitted by, and in accordance with the provisions of, applicable law;

(ii) Mortgagee shall comply with applicable law in the State of Illinois to the extent required by the law of such jurisdiction in connection with the foreclosure of the security interests and liens created under this Mortgage and the other Loan Documents with respect to the Property or other assets situated in the State of Illinois; and

(iii) provisions of Federal law and the law of the State of Illinois shall apply in defining the terms Hazardous Materials and Environmental Requirements (as such terms are defined in the Environmental Agreement) applicable to the Property as such terms are used in the Environmental Agreement.

Nothing contained herein or any other provisions of the Loan Documents shall be construed to provide that the substantive laws of the State of Illinois shall apply to any party's rights and obligations under any of the Loan Documents, which, except as expressly provided in clauses (i), (ii) and (iii) of this Section 6.24, are and shall continue to be governed by the substantive law of the Commonwealth of Massachusetts. In addition, the fact that portions of the Loan Documents may include provisions drafted to conform to the law of the State of Illinois is not intended, nor shall it be deemed, in any way, to derogate the parties' choice of law as set forth or referred to in this Mortgage, the Note, the Loan Agreement or in the other Loan Documents. The parties further agree that Administrative Agent, on behalf of the Lenders, may enforce its rights under the Loan Documents including, but not limited to, its rights to sue the Mortgagor or to collect any outstanding indebtedness in accordance with applicable law.

Section 6.25 Entire Agreement. The Loan Documents constitute the entire understanding and agreement between Mortgagor, Mortgagee and Lenders with respect to the transactions arising in connection with the Secured Indebtedness and supersede all prior written or oral understandings and agreements between Mortgagor, Mortgagee and Lenders with respect to the matters addressed in the Loan Documents. Mortgagor hereby acknowledges that, except as incorporated in writing in the Loan Documents, there are not, and were not, and no Persons are or were authorized by Mortgagee and/or any Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the matters addressed in the Loan Documents.

Section 6.26 Intentionally Omitted.

Section 6.27 Forum. Mortgagor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court or any United States federal court sitting in the Commonwealth of Massachusetts over any Dispute. Mortgagor hereby irrevocably waives, to the fullest extent permitted by Law, any objection that Mortgagor may now or hereafter have to the laying of venue in any such court and any claim that any such court is an inconvenient forum. Mortgagor hereby agrees and consents that, in addition to any methods of service of process provided for under applicable Law, all service of process in any such suit, action or proceeding in any state court or any United States federal court sitting in the Commonwealth of Massachusetts may be made by certified or registered mail, return receipt requested, directed to Mortgagor at its address for notice set forth in this Mortgage, or at a subsequent address of which Mortgagee received actual notice from Mortgagor in accordance with the notice section of this Mortgage, and service so made shall be complete five (5) days after the same shall have been so mailed. Nothing herein shall affect the right of Mortgagee to serve process in any manner permitted by Law or limit the right of Mortgagee to bring proceedings against Mortgagor in any other court or jurisdiction.

Section 6.28 WAIVER OF JURY TRIAL. **MORTGAGOR AND MORTGAGEE (BY ITS ACCEPTANCE HEREOF), FOR ITSELF AND ON BEHALF OF EACH LENDER HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING OR ACTION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS MORTGAGE OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION HEREWITH OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY**

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OTHER THEORY). THIS WAIVER IS KNOWINGLY, WILLINGLY AND VOLUNTARILY MADE BY MORTGAGOR AND MORTGAGEE, FOR ITSELF AND EACH LENDER, AND MORTGAGOR AND MORTGAGEE, FOR ITSELF AND ON BEHALF OF EACH LENDER HEREBY REPRESENT THAT NO REPRESENTATIONS OF FACT OR OPINION HAVE BEEN MADE BY ANY PERSON OR ENTITY TO INDUCE THIS WAIVER OF TRIAL BY JURY OR TO IN ANY WAY MODIFY OR NULLIFY ITS EFFECT. THIS PROVISION IS A MATERIAL INDUCEMENT FOR THE PARTIES ENTERING INTO THE LOAN DOCUMENTS. MORTGAGOR, MORTGAGEE AND EACH LENDER ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS SECTION IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE FURTHER REPRESENT AND WARRANT THAT EACH HAS BEEN REPRESENTED IN THE SIGNING OR ACCEPTANCE OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, OR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL SELECTED OF ITS OWN FREE WILL, AND THAT IT HAS HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

Section 6.29 Other Amounts Secured; Maximum Indebtedness. Mortgagor acknowledges and agrees that this Mortgage secures the entire principal amount of the Note and interest accrued thereon, regardless of whether any or all of the Loan proceeds are disbursed on or after the date hereof, and regardless of whether the outstanding principal is repaid in whole or part or are future advances made at a later date, any and all litigation and other expenses and any other amounts as provided herein or in any of the other Loan Documents, including, without limitation, the payment of any and all Loan commissions, service charges, liquidated damages, expenses and advances due to or paid or incurred by Mortgagee and/or any Lender in connection with the Loan, all in accordance with the Loan Documents. Under no circumstances, however, shall the total indebtedness secured hereby exceed Two Hundred Seventy-Four Million Forty-five Thousand Seven Hundred Ninety-Eight and No/100 Dollars (\$274,045,798.00) (the "Maximum Secured Amount"). It is agreed that any future advances made by Mortgagee and/or any Lender for the benefit of Mortgagor from time to time under this Mortgage or the other Loan Documents and whether or not such advances are obligatory or are made at the option of Mortgagee and/or any Lender, made at any time from and after the date of this Mortgage, and all interest accruing thereon, shall be equally secured by this Mortgage and shall have the same priority as all amounts, if any, advanced as of the date hereof and shall be subject to all of the terms and provisions of this Mortgage. This Mortgage shall be valid and have priority to the extent of the full amount of the Secured Indebtedness over all subsequent liens and encumbrances, including, to the extent permitted by applicable law, statutory liens, excepting solely taxes and assessments levied on the Property given priority by law.

Section 6.30 Substitute Mortgages. Mortgagor and Mortgagee shall, upon their mutual agreement to do so, execute such documents as may be necessary in order to effectuate the modification hereof, including the execution of substitute mortgages, so as to create two (2) or more liens on the Property securing such amounts as may be mutually agreed upon but in no event to exceed, in the aggregate, the Maximum Secured Amount; in such event, Mortgagor covenants and agrees to pay the reasonable fees and expenses of Mortgagee and its counsel in connection with any such modification.

Section 6.31 Satisfaction or Assignment of Mortgage. Upon payment in full of all sums and the performance of all obligations, secured hereby in accordance with the terms and conditions of this Mortgage and the other Loan Documents, Mortgagee shall deliver a satisfaction or release of this Mortgage or, at Mortgagor's option to be exercised in writing, an assignment hereof, in either case in proper form of recording. As a condition to any such satisfaction or assignment, Mortgagor covenants and agrees to pay Mortgagee's and Lenders' reasonable out-of-pocket fees and expenses (including reasonable attorneys' fees and expenses) in connection therewith. Upon any such satisfaction or assignment, Mortgagee and each Lender shall, automatically and without the need for any other further documentation, be absolutely and unconditionally released from any and all claims or liabilities in connection with the Loan. In addition, Mortgagor hereby indemnifies and agrees to hold Mortgagee and each Lender harmless from and against any and all claims and liabilities arising out of the satisfaction or assignment hereof, such indemnification to survive any such satisfaction or assignment.

Section 6.32 Collateral Protection Act. Unless Mortgagor provides Mortgagee with evidence of the insurance required by this Mortgage or any other Loan Document, Mortgagee may purchase insurance at

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Mortgagor's expense to protect Mortgagee's and the Lenders' interest in the Property or any other collateral for the Secured Indebtedness. This insurance may, but need not, protect Mortgagor's interests. The coverage Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property or any other collateral for the Secured Indebtedness. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required under this Mortgage or any other Loan Document. If Mortgagee purchases insurance for the Property or any other collateral for the Secured Indebtedness, Mortgagor shall be responsible for the costs of that insurance, including interest and any other charges that Mortgagee may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Secured Indebtedness. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own. For purposes of the Illinois Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor hereby acknowledges Mortgagee's right pursuant to this Section to obtain collateral protection insurance.

Section 6.33 Conflict. Wherever there is any conflict or inconsistency between any terms or provisions of this Mortgage and the Loan Agreement, the terms and provisions of the Loan Agreement shall control.

Section 6.34 Request for Notice. Mortgagor hereby requests a copy of any notice of Default and any notice of sale hereunder be mailed to it at the address set forth on the cover page to this Mortgage.

Section 6.35 Non-Exculpation. Mortgagee's recourse against Mortgagor hereunder is limited as set forth in Section 6.26 of the Loan Agreement.

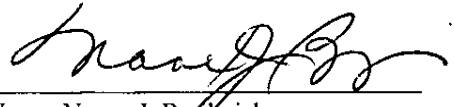
[Signatures appear on the following page]

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as an instrument under seal as of the date first written on page 1 hereof.

MORTGAGOR:

BCSP 231 PROPERTY LLC, a Delaware limited liability company

By 

Name: Nancy J. Broderick
Title: Senior Managing Director

Property of Cook County Clerk's Office

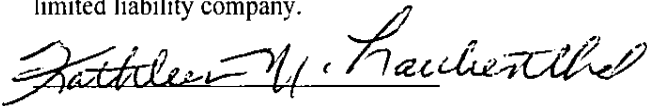
Acknowledgment

Commonwealth of Massachusetts)

County of Suffolk)

September 26, 2017

On this day, before me, the undersigned notary public, personally appeared Nancy J. Broderick, proved to me through satisfactory evidence of identification, being (check whichever applies): driver's license or other state or federal governmental document bearing a photographic image, oath or affirmation of a credible witness known to me who knows the above signatory; or my own personal knowledge of the identity of the signatory, to be the person whose name is signed above, and acknowledged the foregoing to be signed by her as her free act and deed, voluntarily for its stated purpose as Senior Managing Director of BCSP 231 Property LLC, a Delaware limited liability company.



_____, Notary Public

My Commission Expires: _____



KATHLEEN M. LAUBENTHAL
Notary Public
Commonwealth of Massachusetts
My Commission Expires
May 13, 2022

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EXHIBIT A

DESCRIPTION OF LAND

PARCEL 1:

LOTS 15 THROUGH 22 AND 25 THROUGH 32 (EXCEPT THAT PART OF LOTS 22 AND 25 TAKEN FOR THE EXTENSION OF SOUTH LASALLE STREET) AND THE WEST 1/2 OF THE VACATED ALLEY LYING EAST AND ADJOINING LOTS 15 AND 32 IN PECK AND OTHERS SUBDIVISION OF BLOCK 116 IN SCHOOL SECTION ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THAT PART OF THE SOUTH 1/2 OF WEST QUINCY STREET LYING NORTH OF AND ADJOINING THE NORTH LINE OF PARCEL 1 AFORESAID, AND LYING WEST OF THE EAST LINE OF THE SAID WEST 1/2 OF VACATED ALLEY EXTENDED NORTH AND EAST OF THE EAST LINE OF SOUTH LASALLE STREET EXTENDED NORTH.

PARCEL 3:

THAT PART OF THE NORTH 1/2 OF WEST JACKSON STREET LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF PARCEL 1 AFORESAID, AND LYING WEST OF THE EAST LINE OF SAID WEST 1/2 OF VACATED ALLEY EXTENDED SOUTH AND EAST OF THE EAST LINE OF SOUTH LASALLE STREET EXTENDED SOUTH.

PARCEL 4:

THE EAST 1/2 OF SOUTH LASALLE STREET LYING WEST OF AND ADJOINING THE WEST LINES OF PARCELS 1, 2 AND 3.

PARCEL 5:

LOTS 8 THROUGH 14 AND THE EAST 1/2 OF THE VACATED ALLEY LYING WEST OF AND ADJOINING SAID LOTS 8 THROUGH 14 IN PECK AND OTHERS SUBDIVISION OF BLOCK 116 IN SCHOOL ADDITION TO CHICAGO IN SECTION 16, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

THAT PART OF THE SOUTH 1/2 OF WEST QUINCY STREET LYING NORTH OF AND ADJOINING THE NORTH LINE OF PARCEL 5 AFORESAID, AND LYING WEST OF THE WEST LINE OF SOUTH CLARK STREET EXTENDED NORTH AND EAST OF THE WEST LINE OF SAID EAST 1/2 OF VACATED ALLEY EXTENDED NORTH.

PARCEL 7:

THAT PART OF THE NORTH 1/2 OF WEST JACKSON STREET LYING SOUTH OF AND ADJOINING THE SOUTH LINE OF PARCEL 5 AFORESAID, AND LYING WEST OF THE WEST LINE OF SOUTH CLARK STREET EXTENDED SOUTH AND EAST OF THE WEST LINE OF SAID EAST 1/2 OF VACATED ALLEY EXTENDED SOUTH.

PARCEL 8:

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THE WEST 1/2 OF SOUTH CLARK STREET LYING EAST OF AND ADJOINING THE EAST LINES OF PARCELS 5, 6, AND 7.

Address: 231 S. LaSalle Street, Chicago, Illinois 60604
PIN: 17-16-222-006-0000 and 17-16-222-010-0000

Property of Cook County Clerk's Office