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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



1827006262

Doc# 1827006262 Fee \$74.00

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

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 09/27/2018 03:49 PM PG: 1 OF 19

The property identified as:

PIN: 15-21-207-025-0000

T174247287
3 of 3

Address:

Street: 1343 NORFOLK AVENUE

Street line 2:

City: WESTCHESTER

State: IL

ZIP Code: 60154

Lender: RCN CAPITAL LLC

Borrower: LOFTON ENTERPRISES INC

Loan / Mortgage Amount: \$182,650.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

Certificate number: 7F30624F-8218-4DF8-A427-608BC540C72F

Execution date: 9/21/2018

CCRD REVIEW

A handwritten signature in black ink, appearing to be "K.A. YARBROUGH", written over the "CCRD REVIEW" stamp.

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..... Space Above Line for Recorder's Use

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

PREMISES:

1343 Norfolk Avenue, Westchester, IL
60154
(Parcel: 15212070250000)

<u>THIS DOCUMENT PREPARED BY:</u>	<u>AFTER RECORDING, RETURN TO:</u>
Jeffrey Tesch RCN Capital, LLC 75 Gerber Road East, Ste. 102 South Windsor, CT 06074	RCN Capital, LLC 75 Gerber Road East, Ste. 102 South Windsor, CT 06074

31363.MTG

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MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (the "**Instrument**") is made by **Lofton Enterprises, Inc.**, as mortgagor (the "**Mortgagor**"), an Illinois corporation with a principal place of business at 4401 S Ellis Avenue, Chicago, IL 60653; in favor of **RCN Capital, LLC**, as mortgagee (the "**Mortgagee**"), a Connecticut limited liability company with a principal place of business at 75 Gerber Road East, Ste. 102, South Windsor, CT 06074.

RECITAL

Mortgagor is indebted to Mortgagee in the principal amount of **One Hundred Eighty-Two Thousand Six Hundred Fifty Dollars and No Cents (\$182,650.00)**, as evidenced by **Mortgagor's Commercial Promissory Note** (as the same may be amended, restated, or modified from time to time, the "**Note**"), payable to **Mortgagee**, executed and delivered contemporaneously with this **Instrument**, and maturing on **Tuesday, October 1, 2019** (the "**Maturity Date**"), subject to the terms and conditions of that certain **Commercial Loan Agreement** (as the same may be amended from time to time, the "**Loan Agreement**"), between **Mortgagor** and **Mortgagee** executed and delivered contemporaneously herewith.

AGREEMENT

TO SECURE TO MORTGAGEE the full and prompt payment and performance of each and all of **Mortgagor's** obligations under the **Note**, and the performance of the covenants and agreements of **Mortgagor** contained in this **Instrument**, and in any other documents evidencing, securing, or now or hereafter executed in connection with the **Note** (each, a "**Loan Document**"; collectively, the "**Loan Documents**"; and all of the indebtedness, obligations, and liabilities of **Mortgagor** arising under the **Note**, the **Loan Documents**, or both, and any and all renewals, modifications, rearrangements, amendments, or extensions thereof, are sometimes hereinafter referred to as the "**Indebtedness**"), **Mortgagor** hereby **MORTGAGES, WARRANTS, HYPOTHECATES, AND ASSIGNS** to **Mortgagee** the following described property (collectively, the "**Premises**"):

- A The real property located in Cook County, Illinois, commonly known as **1343 Norfolk Avenue, Westchester, IL 60154**, as such real property is more particularly described in **SCHEDULE 1**, attached hereto and made a part hereof for all purposes the same as if set forth herein verbatim; together with all right, title, and interest of **Mortgagor** in and to (i) 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 real property or the **Improvements** (as hereinafter defined), (ii) any strips or gores between the real property and abutting or adjacent properties, and (iii) all water and water rights, timber, crops and mineral interests pertaining to the real property (such real property and other rights, titles, and interests being hereinafter sometimes called the "**Land**");
- B All buildings, structures, improvements now constructed or at any time in the future constructed or placed upon the **Land**, including any future alterations, replacements and additions (the "**Improvements**");

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- C** All fixtures and systems and articles of personal property, of every kind and character, now owned or hereafter acquired by **Mortgagor** which are now or hereafter is attached to the **Land** or the **Improvements** so as to constitute a fixture under the laws of the state of Illinois, and used in or necessary to complete the 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 (all of which are herein sometimes referred to together as "**Accessories**");
- D** All (i) plans and specifications for the **Improvements**; (ii) approvals, entitlements and contracts relating to the **Land** or the **Improvements** or the **Accessories** or any part thereof; (iii) deposits including, but not limited to, **Mortgagor's** rights in tenants' security deposits (if any), deposits with respect to utility services to the **Land** or the **Improvements** or the **Accessories** or any part thereof, and any deposits or reserves hereunder or under any other **Loan Documents** (as hereinafter defined) for taxes, insurance or otherwise, funds, accounts, contract rights, instruments, documents, commitments, general intangibles, notes and chattel paper used in connection with or arising from or by virtue of any transactions related to the **Land** or the **Improvements** or the **Accessories** or any part thereof; (iv) permits, licenses, franchises, bonds, certificates and other rights and privileges obtained in connection with the **Land** or the **Improvements** or the **Accessories** or any part thereof; (v) leases, rents, royalties, bonuses, issues, profits, revenues and other benefits of the **Land**, the **Improvements** and the **Accessories**; and (vi) other properties, rights, titles and interests, if any, specified in any **Section** of this **Instrument** as being part of the **Premises**;
- E** All rents (whether from residential or non-residential space), revenues, and other income of the **Land** or the **Improvements**, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the **Premises**, whether now due, past due or to become due, and deposits forfeited by tenants, and, if **Mortgagor** is a cooperative housing corporation or association, maintenance fees, charges or assessments payable by shareholders or residents under proprietary leases or occupancy agreements, whether now due, past due, or to become due (all of which are herein sometimes referred to together as the "**Rents**");
- F** All present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the **Premises**, or any portion of the **Premises** (including proprietary leases or occupancy agreements if **Mortgagor** is a cooperative housing corporation), and all modifications, extensions or renewals (all of which are herein sometimes referred to together as the "**Leases**");
- G** All proceeds, products, consideration, compensation and recoveries, direct or consequential, cash and noncash, of or arising from, as the case may be, (i) the properties, rights, titles and interests referred to above in paragraphs (A), (B), (C), (D), (E), and (F); (ii) any sale, lease or other disposition thereof; (iii) each policy of insurance relating thereto (including premium refunds); (iv) the taking thereof or of any rights appurtenant thereto by eminent domain or sale in lieu thereof for public or quasi-public use under any

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law; and (v) any damage thereto whether caused by such a taking (including change of grade of streets, curb cuts or other rights of access) or otherwise caused; and

H All other interests of every kind and character, and proceeds thereof, which **Mortgagor** now has or hereafter acquires in, to or for the benefit of the properties, rights, titles and interests referred to above in paragraphs (A), (B), (C), (D), (E), (F), (G), and all property used or useful in connection therewith, including, but not limited to, remainders, reversions and reversionary rights or interests.

Mortgagor does hereby represent and warrant that **Mortgagor** is lawfully seized of the **Premises** and has the right, power and authority to **MORTGAGE, PLEDGE, HYPOTHECATE, GRANT, WARRANT, CONVEY AND ASSIGN** the **Premises**, and that the **Premises** are unencumbered except for those encumbrances (the "**Permitted Encumbrances**") shown on the schedule of exceptions to coverage in the **Title Policy** (as defined in the Loan Agreement), issued to and accepted by **Mortgagee** contemporaneously with the execution and recording of this **Instrument** and insuring **Mortgagee's** interest in the **Premises**. **Mortgagor** does hereby covenant and agree that **Mortgagor** will warrant and defend generally the title to the **Premises** against all claims and demands, subject to the **Permitted Encumbrances**.

Provided no Event of Default (as defined in the Note) occurs, the sums due and payable under the terms of the Note bear interest at the rate of 9.99%.

In consideration of the aforesaid, and in order to more fully protect the security of this **Instrument**, **Mortgagor** hereby represents, warrants, covenants, and agrees as follows:

1. Inspection. **Mortgagee** and any other **Person** authorized by **Mortgagee** shall have the right to enter and inspect the **Premises** at all reasonable times.

2. Security Agreement. This **Instrument** is also a security agreement between **Mortgagor**, as debtors, and **Mortgagee**, as secured party, for any of the **Premises** which, under applicable law, may be subjected to a security interest under the Uniform Commercial Code in the state of Illinois (the "**UCC**"), for the purpose of securing **Mortgagor's** obligations under this **Instrument** and to further secure **Mortgagor's** obligations under the **Note**, and other **Loan Documents**, whether such **Premises** are owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, the "**UCC Collateral**"), and by this **Instrument**, **Mortgagor** hereby grants to **Mortgagee** a security interest in the **Collateral**. To the extent necessary under applicable law, **Mortgagor** hereby authorizes **Mortgagee** to prepare and file financing statements, continuation statements and financing statement amendments in such form as **Mortgagee** may require to perfect or continue the perfection of this security interest. If an **Event of Default** (as hereinafter defined) has occurred and is continuing, **Mortgagee** will have the remedies of a secured party under the **UCC**, in addition to all remedies provided by this **Instrument** or existing under applicable law. In exercising any remedies, **Mortgagee** may exercise its remedies against the **Collateral** separately or together, and in any order, without in any way affecting the availability of **Mortgagee's** other remedies. This **Instrument** also constitutes a financing statement with respect to any part of the **Premises** that is or may become a fixture, if permitted by applicable law.

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3. Taxes and Other Charges. Mortgagor is responsible for the payment of all taxes ("**Taxes**"), assessments for local improvements ("**Assessment**"), rates and charges, license fees, all charges which may be imposed for the use of vaults, chutes, areas and other space beyond the lot line and abutting the public sidewalks in front of or adjoining the **Premises**, and all other governmental levies and charges (collectively, the "**Impositions**"), of every kind and nature whatsoever. Upon Mortgagee's request, Mortgagor shall deliver to Mortgagee within five (5) days of any such request, proof of payment of any and all **Impositions**, in form satisfactory to Mortgagee.

4. Insurance. Mortgagor shall keep the **Premises** insured in accordance with the provisions of the **Loan Agreement**.

5. Liens. Mortgagor shall not, directly or indirectly, create or suffer or permit to be created, or to stand, against the **Premises** or any portion thereof, or against the rents, issues and profits therefrom, any lien, charge, mortgage, deed of trust, adverse claim or other encumbrance, whether senior or junior to the lien of this **Instrument**, other than the lien of this **Instrument** and the **Permitted Encumbrances**.

6. Due on Sale or Encumbrance. Should the title to the **Premises**, or any part thereof or any interest therein, be transferred to any **Person**, firm or entity other than the **Borrower**, or should the ownership of the **Premises**, or any part thereof, become vested in any owner other than the **Borrower**, or should any lien, mortgage or any other encumbrance, voluntary or involuntary, be placed against the **Premises**, or in any of the foregoing events, the entire principal balance due under the **Note**, together with all accrued interest thereunder, shall at the election of Mortgagee, be and become immediately due and payable in full, subject to applicable law, and Mortgagee shall be entitled to pursue all remedies provided for in this **Instrument** or at law, including without limitation, foreclosure of the lien of this **Instrument**.

7. Assignment of Rents; Appointment of Receiver; Mortgagee in Possession. (A) As part of the consideration for the **Indebtedness**, Mortgagor absolutely and unconditionally assigns and transfers to Mortgagee all **Rents**. It is the intention of Mortgagor to establish a present, absolute and irrevocable transfer and assignment to Mortgagee of all **Rents** and to authorize and empower Mortgagee to collect and receive all **Rents** without the necessity of further action on the part of the **Borrower**. Promptly upon request by Mortgagee, Mortgagor agrees to execute and deliver such further assignments as Mortgagee may from time to time require. Mortgagor and Mortgagee intend this assignment of **Rents** to be immediately effective and to constitute an absolute, present, and unconditional assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of **Rents**, and for no other purpose, the **Rents** will not be deemed to be a part of the **Premises**. However, if this present, absolute, and unconditional assignment of the **Rents** is not enforceable by its terms under the laws of the state of Illinois, then the **Rents** will be included as a part of the **Premises** and it is the intention of Mortgagor that in this circumstance this **Instrument** create and perfect a lien on the **Rents** in favor of Mortgagee, which lien will be effective as of the date of this **Instrument**. (B) Until the occurrence of an **Event of Default**, Mortgagee hereby grants to Mortgagor a revocable license to collect and receive all the **Rents**, to hold all the **Rents** in trust for the benefit of Mortgagee and to apply all the **Rents** to pay the installments of interest and principal then due and payable under the **Note** and the other amounts then due

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and payable under the other **Loan Documents**, including the **Taxes, Impositions, Assessments, and Insurance**, and to pay the current costs and expenses of managing, operating and maintaining the **Premises**, tenant improvements and other capital expenditures. So long as no **Event of Default** has occurred and is continuing, the **Rents** remaining after application pursuant to the preceding sentence may be retained by **Mortgagor** free and clear of, and released from, **Mortgagee's** rights with respect to the **Rents** under this **Instrument**. After the occurrence of an **Event of Default**, and during the continuance of such **Event of Default**, **Mortgagor** authorizes **Mortgagee** to collect, sue for, and compromise the **Rents** and directs each tenant of the **Premises** to pay all the **Rents** to, or as directed by, **Mortgagee**. From and after the occurrence of an **Event of Default**, and during the continuance of such **Event of Default**, and without the necessity of **Mortgagee** entering upon and taking and maintaining control of the **Premises** directly, or by a receiver, **Mortgagor's** license to collect the **Rents** will automatically terminate and **Mortgagee** will, without notice, be entitled to all the **Rents** as they become due and payable, including the **Rents** then due and unpaid. **Mortgagor** will pay to **Mortgagee** upon demand all the **Rents** to which **Mortgagee** is entitled. At any time on or after the date of **Mortgagee's** demand for the **Rents**, **Mortgagee** may give, and **Mortgagor** hereby irrevocably authorizes **Mortgagee** to give, notice to all tenants of the **Premises** instructing them to pay all **Rents** to **Mortgagee**. *No tenant will be obligated to inquire further as to the occurrence or continuance of an Event of Default. No tenant will be obligated to pay to Mortgagor any amounts which are actually paid to Mortgagee in response to such a notice.* Any such notice by **Mortgagee** will be delivered to each tenant personally, by mail or by delivering such demand to each rental unit. **Mortgagor** will not interfere with and will cooperate with **Mortgagee's** collection of such **Rents**. (C) If an **Event of Default** has occurred and is continuing, then **Mortgagee** will have each of the following rights and may take any of the following actions: (i) **Mortgagee** may, regardless of the adequacy of **Mortgagee's** security or the solvency of **Mortgagor** and even in the absence of waste, enter upon and take and maintain full control of the **Premises** in order to perform all acts that **Mortgagee** in its discretion determines to be necessary or desirable for the operation and maintenance of the **Premises**, including the execution, cancellation, or modification of the Leases, the collection of all the **Rents**, the making of repairs to the **Premises** and the execution or termination of contracts providing for the management, operation or maintenance of the **Premises**, for the purposes of enforcing the assignment of the **Rents** pursuant to **Section 7(A)** of this **Instrument**, protecting the **Premises** or the security of this **Instrument**, or for such other purposes as **Mortgagee**, in its discretion, may deem necessary or desirable. (ii) Alternatively, if an **Event of Default** has occurred and is continuing, regardless of the adequacy of **Mortgagee's** security, without regard to **Mortgagor's** solvency and without the necessity of giving prior notice (oral or written) to **Mortgagor**, **Mortgagee** may apply to any court having jurisdiction for the appointment of a receiver for the **Premises** to take any or all of the actions set forth in the preceding sentence. If **Mortgagee** elects to seek the appointment of a receiver for the **Premises** at any time after an **Event of Default** has occurred and is continuing, **Mortgagor's**, by its execution of this **Instrument**, expressly consents to the appointment of such receiver, including the appointment of a receiver *ex parte* if permitted by applicable law. (iii) If **Mortgagor** is a housing cooperative corporation or association, **Mortgagor** hereby agrees that if a receiver is appointed, the order appointing the receiver may contain a provision requiring the receiver to pay the installments of interest and principal then due and payable under the **Note** and the other amounts then due and payable under the other

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Loan Documents, including the **Taxes, Impositions, Assessments, and Insurance**, it being acknowledged and agreed that the **Indebtedness** is an obligation of **Mortgagor** and must be paid out of maintenance charges payable by **Mortgagor's** tenant shareholders under their proprietary leases or occupancy agreements. (iv) **Mortgagee** or the receiver, as the case may be, will be entitled to receive a reasonable fee for managing the **Premises**. (v) Immediately upon appointment of a receiver or immediately upon **Mortgagee's** entering upon and taking possession and control of the **Premises**, **Mortgagor** will surrender possession of the **Premises** to **Mortgagee** or the receiver, as the case may be, and will deliver to **Mortgagee** or the receiver, as the case may be, all documents, records (including records on electronic or magnetic media), accounts, surveys, plans, and specifications relating to the **Premises** and all security deposits and prepaid **Rents**. (vi) If **Mortgagee** takes possession and control of the **Premises**, then **Mortgagee** may exclude **Mortgagor** and its representatives from the **Premises**. **Mortgagor** acknowledges and agrees that the exercise by **Mortgagee** of any of the rights conferred under this **Section 7** will not be construed to make **Mortgagee** a mortgagee-in-possession of the **Premises** so long as **Mortgagee** has not itself entered into actual possession of the **Land and Improvements**. (D) If **Mortgagee** enters the **Premises**, **Mortgagee** will be liable to account only to **Mortgagor** and only for those **Rents** actually received. Except to the extent of **Mortgagee's** gross negligence or willful misconduct, **Mortgagee** will not be liable to the **Borrower**, anyone claiming under or through **Mortgagor** or anyone having an interest in the **Premises**, by reason of any act or omission of **Mortgagee** under **Section 7(C)** of this **Instrument**, and **Mortgagor** hereby releases and discharges **Mortgagee** from any such liability to the fullest extent permitted by law. If the **Rents** are not sufficient to meet the costs of taking control of and managing the **Premises** and collecting the **Rents**, any funds expended by **Mortgagee** for such purposes will become an additional part of the **Indebtedness**. (E) If the **Rents** are not sufficient to meet the costs of taking control of and managing the **Premises** and collecting the **Rents**, any funds expended by **Mortgagee** for such purposes will become an additional part of the **Indebtedness** as provided in **Section 10** of this **Instrument**. (F) Any entering upon and taking of control of the **Premises** by **Mortgagee** or the receiver, as the case may be, and any application of **Rents** as provided in this **Instrument** will not cure or waive any **Event of Default** or invalidate any other right or remedy of **Mortgagee** under applicable law or provided for in this **Instrument**.

8. Assignment of Leases; Leases Affecting the Premises. (A) As part of the consideration for the **Indebtedness**, **Mortgagor** absolutely and unconditionally assigns and transfers to **Mortgagee** all of **Mortgagor's** right, title, and interest in, to, and under the **Leases**, including **Mortgagor's** right, power and authority to modify the terms of any such **Lease**, or extend or terminate any such **Lease**. It is the intention of **Mortgagor's** to establish a present, absolute and irrevocable transfer and assignment to **Mortgagee** of all of **Mortgagor's** right, title and interest in, to, and under the **Leases**. **Mortgagor** and **Mortgagee** intend this assignment of the **Leases** to be immediately effective and to constitute an absolute present assignment and not an assignment for additional security only. For purposes of giving effect to this absolute assignment of the **Leases**, and for no other purpose, the **Leases** will not be deemed to be a part of the **Premises**. However, if this present, absolute and unconditional assignment of the **Leases** is not enforceable by its terms under the laws of the state of Illinois, then the **Leases** will be included as a part of the **Premises** and it is the intention of **Mortgagor** that in this circumstance this **Instrument** create and perfect a lien on the **Leases** in favor of **Mortgagee**, which lien will be effective as of the date of this **Instrument**. (B) Until **Mortgagee** gives

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Notice to Mortgagor of Mortgagee's exercise of its rights under this Section 8. Mortgagor will have all rights, power and authority granted to Mortgagor under any Lease (except as otherwise limited by this Section 8 or any other provision of this Instrument), including the right, power and authority to modify the terms of any Lease or extend or terminate any Lease. Upon the occurrence of an **Event of Default, and during the continuance of such **Event of Default**, the permission given to Mortgagor pursuant to the preceding sentence to exercise all rights, power and authority under Leases will automatically terminate. Mortgagor will comply with and observe Mortgagor's obligations under all Leases, including Mortgagor's obligations pertaining to the maintenance and disposition of tenant security deposits.**

(C) Mortgagor acknowledges and agrees that the exercise by Mortgagee, either directly or by a receiver, of any of the rights conferred under this Section 8 will not be construed to make Mortgagee a mortgagee-in-possession of the Premises so long as Mortgagee has not itself entered into actual possession of the Land and the Improvements. The acceptance by Mortgagee of the assignment of the Leases pursuant to Section 8(A) of this Instrument will not at any time or in any event obligate Mortgagee to take any action under this Instrument or to expend any money or to incur any expenses. Except to the extent of Mortgagee's gross negligence or willful misconduct, Mortgagee will not be liable in any way for any injury or damage to the Person or property sustained by any Person or Persons in or about the Premises. Prior to Mortgagee's actual entry into and taking possession of the Premises, Mortgagee will not be obligated for any of the following: (i) performing any of the terms, covenants and conditions contained in any Lease, or any obligation with respect to any Lease; (ii) appearing in or defending any action or proceeding relating to the Lease or the Premises; (iii) the operation, control, care, management or repair of the Premises or any portion of the Premises. The execution of this Instrument by Mortgagor will constitute conclusive evidence that all responsibility for the operation, control, care, management, and repair of the Premises are and will be that of Mortgagor, prior to such actual entry and taking of possession. (D) Upon delivery of Notice by Mortgagee to Mortgagor of Mortgagee's exercise of its rights under this Section 8 at any time after the occurrence of an **Event of Default, and during the continuance of such **Event of Default**, and without the necessity of Mortgagee entering upon and taking and maintaining control of the Premises directly, by a receiver, or by any other manner or proceeding permitted by the laws of the state of Illinois, Mortgagee immediately will have all rights, powers and authority granted to Mortgagor under any Lease, including the right, power and authority to modify the terms of any such Lease, or extend or terminate any such Lease. (E) Mortgagor will, promptly upon Mortgagee's request, deliver to Mortgagee an executed copy of each Lease then in effect. (F) If Mortgagor is a cooperative housing corporation or association, notwithstanding anything to the contrary contained in this Instrument, so long as Mortgagor remains a cooperative housing corporation or association and is not in breach of any covenant of this Instrument, Mortgagee consents to the following: (i) Mortgagor may execute leases of apartments for a term in excess of two (2) years to a tenant shareholder of Mortgagor so long as such leases, including proprietary leases, are and will remain subordinate to the lien of this Instrument. (ii) Mortgagor may surrender or terminate such leases of apartments where the surrendered or terminated lease is immediately replaced or where Mortgagor uses its best efforts to secure such immediate replacement by a newly-executed lease of the same apartment to a tenant shareholder of Mortgagor. However, no consent is given by Mortgagee to any execution, surrender, termination or assignment of a lease under terms that would waive or**

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reduce the obligation of the resulting tenant shareholder under such lease to pay cooperative assessments in full when due or the obligation of the former tenant shareholder to pay any unpaid portion of such assessments.

9. Application of Payments. If at any time **Mortgagee** receives, from **Mortgagor** or otherwise, any amount applicable to the **Indebtedness** which is less than all amounts due and payable at such time, then **Mortgagee** may apply that payment to amounts then due and payable in any manner and in any order determined by **Mortgagee**, in **Mortgagee's** discretion. Neither **Mortgagee's** acceptance of an amount that is less than all amounts then due and payable nor **Mortgagee's** application of such payment in the manner authorized will constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the **Indebtedness**, **Mortgagor's** obligations under this **Instrument**, the **Note** and all other **Loan Documents** will remain unchanged.

10. Protection of Mortgagee's Security; Instrument Secures Future Advances. If **Mortgagor** should fail to perform any of its obligations under this **Instrument** or any other **Loan Document**, or if any action or proceeding is commenced which purports to affect the **Premises**, **Mortgagee's** security, or **Mortgagee's** rights under this **Instrument**, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of **Hazardous Materials Laws** (as hereinafter defined), fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then **Mortgagee**, at **Mortgagee's** option may make such appearances, file such documents, disburse such sums and take such actions as **Mortgagee** reasonably deems necessary to perform such obligations of **Mortgagor** and to protect **Mortgagee's** interest, including all of the following: (i) payment of attorney's fees and costs; (ii) enter upon the **Premises** to make repairs or secure the **Premises**; procure insurance as required by the **Loan Agreement**; (iii) pay any amounts which **Mortgagor** has failed to pay under this **Instrument**, the **Loan Agreement**, or any of the **Loan Documents**; (iv) perform any of the **Mortgagor's** obligations under the **Loan Agreement**; (v) make advances to pay, satisfy or discharge any obligation of the **Mortgagor** for the payment of money that is secured by a lien on the **Premises**. Any amounts disbursed by **Mortgagee** under this **Section 10** or under any other provision of this **Instrument** that treats such disbursement as being made under this **Section 10**, will be secured by this **Instrument**, will be added to, and become part of, the principal component of the **Indebtedness**, will be immediately due and payable and will bear interest from the date of disbursement until paid at the **Default Rate** (as defined in the **Note**). Nothing in this **Section 10** will require **Mortgagee** to incur any expense or take any action. The provisions of this **Section 10**, including the obligation to indemnify **Mortgagee**, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this **Instrument** and shall not be affected by **Mortgagee's** acquisition of any interest in the **Premises**, whether by foreclosure or otherwise. As used herein, the term "**Hazardous Materials Law**" and "**Hazardous Materials Laws**" means any and all federal, state and local laws, ordinances, regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future, including all amendments, that relate to **Hazardous Materials** (as hereinafter defined) or the protection of human health or the environment and apply to **Mortgagor** or to the **Premises**. **Hazardous Materials Laws** include the **Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.**

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Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs. As used herein, the term "**Hazardous Materials**" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the **Premises** are prohibited by any governmental authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," or "pollutant" by or within the meaning of any **Hazardous Materials Law**, or (ii) is regulated in any way by or within the meaning of any **Hazardous Materials Law**.

11. Events of Default. An **Event of Default** under the **Note**, the **Loan Agreement**, or any other **Loan Documents** will constitute an **Event of Default** under this **Instrument**. Upon the occurrence of an **Event of Default**, the **Indebtedness** shall become due and payable forthwith at the option of **Mortgagee**.

12. Remedies Cumulative. Each right and remedy provided in this **Instrument** is distinct from all other rights or remedies under this **Instrument**, the **Loan Agreement** or any other **Loan Document** or afforded by applicable law or equity, and each will be cumulative and may be exercised concurrently, independently or successively, in any order. **Mortgagee's** exercise of any particular right or remedy will not in any way prevent **Mortgagee** from exercising any other right or remedy available to **Mortgagee**. **Mortgagee** may exercise any such remedies from time to time and as often as **Mortgagee** chooses.

13. Waiver of Statute of Limitations, Offsets, and Counterclaims. **Mortgagor** waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this **Instrument** or to any action brought to enforce any **Loan Document**. **Mortgagor** hereby waives the right to assert a counterclaim, other than a compulsory counterclaim, in any action or proceeding brought against it by **Mortgagee** or otherwise to offset any obligations to make the payments required by the **Loan Documents**. No failure by **Mortgagee** to perform any of its obligations under this **Instrument** will be a valid defense to, or result in any offset against, any payments that **Mortgagor** is obligated to make under any of the **Loan Documents**.

14. Waiver of Marshalling. Notwithstanding the existence of any other security interests in the **Premises** held by **Mortgagee** or by any other party, **Mortgagee** will have the right to determine the order in which any or all of the **Premises** will be subjected to the remedies provided in this **Instrument**, the **Note**, the **Loan Agreement**, or any other **Loan Document**, or applicable law. **Mortgagee** will have the right to determine the order in which any or all portions of the **Indebtedness** are satisfied from the proceeds realized upon the exercise of such remedies. **Mortgagor** and any party who now or in the future acquires a security interest in the **Premises** and who has actual or constructive notice of this **Instrument** waives any and all right to require the marshalling of assets or to require that any of the **Premises** be sold in the

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inverse order of alienation or that any of the **Premises** be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this **Instrument**.

15. Further Assurances. **Mortgagor** will deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as **Mortgagee** may require from time to time in order to better assure, grant, and convey to **Mortgagee** the rights intended to be granted, now or in the future, to **Mortgagee** under this **Instrument** and the **Loan Documents**.

16. Governing Law; Consent to Jurisdiction and Venue. This **Instrument**, and the provisions for the creation, perfection, priority, enforcement, and foreclosure of the liens and security interests created in the **Premises** will be governed by, and construed in accordance with, the laws of the state of Illinois. Notwithstanding the foregoing, the law of the state of Connecticut shall govern the validity and enforceability of all **Loan Documents**, and the **Indebtedness** arising hereunder (but the foregoing shall not be construed to limit **Mortgagee's** rights with respect to such security interest created in the state of Illinois). Nothing in this **Section 16** is intended to limit **Mortgagee's** right to bring any suit, action or proceeding relating to matters under this **Instrument**, the **Note**, the **Loan Agreement**, or any of the **Loan Documents** in any court of any other jurisdiction.

17. Notices. All notices, demands, and other communications required hereunder or otherwise related to this **Instrument** must be given in accordance with the terms and conditions set forth in the **Loan Agreement**.

18. Successors and Assigns. This **Instrument** will bind the respective successors and assigns of **Mortgagor** and **Mortgagee**, and the rights granted by this **Instrument** will inure to **Mortgagee's** successors and assigns.

19. Joint and Several Liability. If more than one party signs this **Instrument** as **Mortgagor**, the obligations of such **Persons** will be joint and several.

20. Relationship of Parties; No Third-Party Beneficiary. The relationship between **Mortgagee** and **Mortgagor** will be solely that of creditor and debtor, respectively, and nothing contained in this **Instrument** will create any other relationship between **Mortgagee** and **Mortgagor**. Nothing contained in this **Instrument** will constitute **Mortgagee** as a joint venturer, partner or agent of **Mortgagor**, or render **Mortgagee** liable for any debts, obligations, acts, omissions, representations or contracts of **Mortgagor**. No creditor of any party to this **Instrument** and no other **Person** will be a third-party beneficiary of this **Instrument** or any other **Loan Document**.

21. Severability; Amendments; Construction The invalidity or unenforceability of any provision of this **Instrument** will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect. This **Instrument** contains the entire agreement among the parties as to the rights granted and the obligations assumed in this **Instrument**. This **Instrument** may not be amended or modified except by a writing signed by the party against whom enforcement is sought. The captions and headings of the sections of this **Instrument** are for convenience only and will be disregarded in construing

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this **Instrument**. Any reference in this **Instrument** to a "Section" will, unless otherwise explicitly provided, be construed as referring to a section of this **Instrument**. Any reference in this **Instrument** to a statute or regulation will be construed as referring to that statute or regulation as amended from time to time. Use of the singular in this **Instrument** includes the plural and use of the plural includes the singular. As used in this **Instrument**, the term "including" means "including, but not limited to" and the term "includes" means "includes without limitation." Unless the context requires otherwise, any definition of or reference to any agreement, instrument, or other document in this **Instrument** will be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in this **Instrument**). Any reference in this **Instrument** to any **Person** will be construed to include such **Person's** successors and assigns. Any capitalized term not specifically defined in this **Instrument** will have the meaning ascribed to that term in the **Loan Agreement**. The term "Person" as used herein, shall mean any natural person, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

22. Subrogation. If, and to the extent that the proceeds of the loan evidenced by the **Note**, or subsequent advances under **Section 10** of this **Instrument**, are used to pay, satisfy or discharge a prior lien, such loan proceeds or advances will be deemed to have been disbursed by **Mortgagee** at **Mortgagor's** request, and **Mortgagee** will automatically, and without further action on its part, be subrogated to the rights, including lien priority, of the owner or holder of the obligation secured by the prior lien, whether or not the prior lien is released.

23. Confession of Judgment in Ejectment. To the extent permissible under the laws of the state of Illinois, at any time after an **Event of Default**, regardless of whether **Mortgagee** has asserted any other right or exercised any other remedy under this **Instrument** or any of the other **Loan Documents**, it shall be lawful for any attorney of any court to confess judgment in ejectment against **Mortgagor** and all **Persons** claiming under **Mortgagor** for the recovery by **Mortgagee** of possession of all or any part of the **Premises**, for which this **Instrument** shall be sufficient warrant. If for any reason after such action shall have commenced the same shall be discontinued and the possession of the **Premises** shall remain in or be restored to **Mortgagor**, **Mortgagee** shall have the right upon subsequent default or defaults to bring one or more action or actions as hereinabove set forth to recover possession of all or any part of the **Premises**.

24. Acceleration; Remedies. At any time during the existence of an **Event of Default**, **Mortgagee**, at **Mortgagee's** option, may declare all of the **Indebtedness** to be immediately due and payable without further demand, and may foreclose this **Instrument** by judicial proceeding and may invoke any other remedies permitted by Illinois law or provided in this **Instrument**, the **Loan Agreement** or in any other **Loan Document**. The **Indebtedness** will include, **Mortgagee** will be entitled to collect, and any decree which adjudicates the amount secured by this **Instrument** will include, all costs and expenses incurred in pursuing such remedies, including attorneys' fees and costs, costs of documentary evidence, abstracts and

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title reports, any of which may be estimated to reflect the costs and expenses to be incurred after the entry of such a decree.

25. Release. Upon payment of the **Indebtedness**, **Mortgagee** will release this **Instrument**. **Mortgagor** will pay **Mortgagee's** reasonable costs incurred in releasing this **Instrument**.

26. Waiver of Homestead and Redemption. **Mortgagor** releases and waives all rights under the homestead and exemption laws of the state of Illinois. **Mortgagor** acknowledges that the **Premises** does not include "agricultural real estate" or "residential real estate" as those terms are defined in 735 ILCS 5/15-1201 and 5/15-1219. Pursuant to 735 ILCS 5/15-1601(b), **Mortgagor** waives any and all rights of redemption from sale under any order of foreclosure of this **Instrument**, or other rights of redemption, which may run to **Mortgagor** or any other "Owner of Redemption", as that term is defined in 735 ILCS 5/15-1212. **Mortgagor** waives all rights of reinstatement under 735 ILCS 5/15-1602 to the fullest extent permitted by Illinois law.

27. Maximum Amount of Indebtedness. Notwithstanding any provision to the contrary in this **Instrument**, the **Note** or any other **Loan Document** which permits any additional sums to be disbursed on or after the date of this **Instrument**, whether as additional loans or for any payments authorized by this **Instrument**, the total amount of the principal component of the **Indebtedness** will not at any time exceed three hundred percent (300%) of the original principal amount of the **Note** (\$182,650.00).

28. Illinois Collateral Protection Act. Unless **Mortgagor** provides **Mortgagee** with evidence of the insurance coverage required by the **Loan Documents**, **Mortgagee** may purchase insurance at **Mortgagor's** expense to protect **Mortgagee's** interest in the **Premises**. This insurance may, but need not, protect **Mortgagor's** interests. The coverage that **Mortgagee** purchases may not pay any claim that **Mortgagor** may make or any claim that is made against **Mortgagor** in connection with the **Premises**. **Mortgagor** may cancel any insurance purchased by **Mortgagee**, but only after providing **Mortgagee** with evidence that **Mortgagor** has obtained insurance as required by the **Loan Documents**. If **Mortgagee** purchases insurance for the **Premises**, **Mortgagor** will be responsible for the costs of that insurance, including interest and any other charges that **Mortgagee** may impose in connection with the placement of such insurance, until the effective date of the cancellation or expiration of such insurance. Without limitation of any other provision of this **Instrument**, the cost of such insurance will be added to the cost of the **Indebtedness** secured hereby. The cost of such insurance may be more than the cost of insurance **Mortgagor** may be able to obtain on its own.

29. Applicability of Illinois Mortgage Foreclosure Law. To ensure the maximum degree of flexibility of the **Loan Documents** under the **Illinois Mortgage Foreclosure Law**, if any provision of this **Instrument** is inconsistent with any applicable provision of the **Illinois Mortgage Foreclosure Law**, 735 ILCS 5/15-101, et seq., as amended from time to time (the "**Act**"), the provisions of the **Act** will take precedence over the provisions of this **Instrument**, but the **Act** will not invalidate or render unenforceable any other provision of this **Instrument** that can be fairly construed in a manner consistent with the **Act**. Without in any way limiting any of **Mortgagee's** rights, remedies, powers and authorities provided in this **Instrument** or otherwise, and in addition to all of such rights, remedies, powers and

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authorities, **Mortgagee** will also have all rights, remedies, powers and authorities permitted to **Holder** of a mortgage under the **Act**. If any provision of this **Instrument** will grant to **Mortgagee** any rights, remedies, powers or authorities upon default of **Mortgagor** which are more limited than what would be vested in **Mortgagee** under the **Act** in the absence of such provision, **Mortgagee** will have such rights, remedies, powers and authorities that would be otherwise vested in it under the **Act**. Without limitation, all expenses (including attorneys' fees and costs) incurred by **Mortgagee** to the extent reimbursable under 735 ILCS 5/15-1510, 5/15-1512 or any other provision of the **Act**, whether incurred before or after any judgment of foreclosure, will be added to the **Indebtedness** and included in the judgment of foreclosure.

30. Protective Advances. (A) All advances, disbursements and expenditures made or incurred by **Mortgagee** before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this **Instrument** or by the **Act** (collectively, the "**Protective Advances**"), shall have the benefit of all applicable provisions of the **Act**, including those provisions of the **Act** hereinbelow referred to: (i) All advances by **Mortgagee** in accordance with the terms of this **Instrument** to: (a) preserve, maintain, repair, restore or rebuild the **Improvements** upon the **Premises**; (b) preserve the lien of this **Instrument** or the priority thereof; or (c) enforce this **Instrument**, as referred to in Subsection (b)(5) of Section 15-1302 of the **Act**; (ii) Payments by **Mortgagee** of: (a) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (b) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the **Premises** or any part thereof; (c) other obligations authorized by this **Instrument**; or (d) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the **Act**; (iii) Advances by **Mortgagee** in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens; (iv) Attorneys' fees and other costs incurred: (a) in connection with the foreclosure of this **Instrument** as referred to in Sections 15-1504(2) and 15-1510 of the **Act**; (b) in connection with any action, suit or proceeding brought by or against **Mortgagee** for the enforcement of this **Instrument** or arising from the interest of **Mortgagee** hereunder; or (c) in connection with the commencement, prosecution or defense of any other action related to this **Instrument** or the **Premises**; (v) **Mortgagee's** fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the **Act**; (vi) Expenses deductible from proceeds of sale as referred to in Subsections (a) and (b) of Section 15-1512 of the **Act**; (vii) Expenses incurred and expenditures made by **Mortgagee** for any one or more of the following: (a) If the **Premises** or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof deemed by **Mortgagee** to be required to be paid; (b) If the **Mortgagor's** interest in the **Premises** are a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (c) Premiums for casualty and liability insurance paid by **Mortgagee** whether or not **Mortgagee** or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the **Premises** imposed by Subsection (c)(1) of Section 15-1704 of the **Act**;

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(d) Repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (e) Payments deemed by **Mortgagee** to be required for the benefit of the **Premises** or required to be made by the owner of the **Premises** under any grants or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the **Premises**; (f) Shares or common expense assessments payable to any association or corporation in which the owner of the **Premises** are a member in any way affecting the **Premises**; (g) If the **Loan** secured hereby is a construction loan, costs incurred **Mortgagee** for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement, or other agreement; (h) Payments deemed by this **Instrument** to be required pursuant to any lease or other agreement for occupancy of the **Premises**; and (i) If this **Instrument** is insured, payments of FHA or private mortgage insurance required to keep such insurance in force. (B) All **Protective Advances** shall be additional indebtedness secured by this **Instrument**, and shall become immediately due and payable without notice and with interest thereon at the **Borrowing Rate** provided for in the **Note**, beginning at the date of the advance until paid. (C) This **Instrument** shall be a lien for all **Protective Advances** as to subsequent purchasers and judgment creditors from the time this **Instrument** is recorded pursuant to Subsection (b)(5) of Section 15-1302 of the Act. (D) All **Protective Advances** shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) Determination of the amount of indebtedness secured by this **Instrument** at any time; (ii) The indebtedness found due and owing to **Mortgagee** in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry or judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purposes; (iii) If right of redemption has not been waived by this **Instrument**, computation of amount required to redeem, pursuant to Subsections (d) of Sections 15-1603 of the Act; (iv) Determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) Application of income in the hands of any receiver or **Mortgagee** in possession; and (vi) Computation of any deficiency judgment pursuant to Subsections (b)(2) and (3) of Sections 15-1502 and Section 15-1511 of the Act.

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

32. Future Advances. If and to the extent that any portion of the **Indebtedness** is to be disbursed from and after the date of the making of the **Loan**, **Mortgagee** agrees to make such advances in accordance with the terms and conditions of the **Loan Agreement**, which has been executed contemporaneously with this **Instrument**, and such amounts will be a lien from the date of recordation of this **Instrument** as provided in 5/15-1302(b)(1) of the Act.

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IN WITNESS WHEREOF, the undersigned has signed and delivered this Mortgage, Assignment of Rents and Security Agreement or has caused said instrument to be signed and delivered by its duly authorized representative on September ____, 2018.

Lofton Enterprises, Inc.

Witness: _____

By: Michael Lofton

Name: Michael Lofton

Title: President

Witness: _____

STATE OF IL)

)ss. _____

COUNTY OF Cook)

I certify that on September 21, 2018, **Michael Lofton** came before me in person and stated to my satisfaction that he/she made the attached instrument; and was authorized to and did execute this instrument on behalf of, and as President of Lofton Enterprises, Inc. (the "**Company**"), the entity named in this instrument, as the free act and deed of the **Company**, by virtue of the authority granted by its by-laws and its board of directors.

Notary Public

Michael J. Henry



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SCHEDULED 1
PROPERTY DESCRIPTION

LOT 225 (EXCEPT THE NORTH 10 FEET THEREOF) AND LOT 226 (EXCEPT THE SOUTH 10 FEET THEREOF) AND THE WEST 1/2 OF THE VACATED ALLEY LYING EAST OF AND ADJOINING LOT 225 (EXCEPT THE NORTH 10 FEET THEREOF) AND LOT 226 (EXCEPT THE SOUTH 10 FEET THEREOF) IN GEORGE F. NIXON AND COMPANY'S TERMINAL ADDITION TO WESTCHESTER IN THE NORTH 1/2 OF SECTION 21, TOWNSHIP 39 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Property of Cook County Clerk's Office