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Illinois Anti-Predatory
Lending Database
Program

CCHI1801516LD NH 1 of 2
Certificate of Exemption



Report Mortgage Fraud
844-768-1713



Doc# 1829945043 Fee \$86.00

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

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 10/26/2018 12:33 PM PG: 1 OF 25

The property identified as: **PIN:** 08-32-202-021-0000

Address:

Street: 980 ELK GROVE

Street line 2:

City: ELK GROVE VILLAGE

State: IL

ZIP Code: 60007

Lender: CVCF-WAB FUND I, LLC

Borrower: SOUTH LONDON HOLDING, LLC

Loan / Mortgage Amount: \$2,175,000.00

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

Certificate number: BAE36F4D-D379-4828-9EA3-9A6C743721A4

Execution date: 10/23/2018

R4

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PREPARED BY AND UPON
RECORDATION RETURN TO:
Paul Kolovos, Esq.
Saul Ewing Arnstein & Lehr LLP
131 Dartmouth Street, Suite 500
Boston, MA 02116

SOUTH LONDON HOLDINGS, LLC, as Mortgagor

to

CVCF-WAB FUND 1, LLC, as Lender

MORTGAGE AND SECURITY AGREEMENT

Dated: As of October 23, 2018

Property Address: Lot 3, commonly known as a part of 980 Elk Grove
Town Center, Elk Grove Village, IL 60007

Permanent Index No: 08-32-202-021-0000

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MORTGAGE AND SECURITY AGREEMENT

This **MORTGAGE AND SECURITY AGREEMENT** (this "Mortgage") entered into as of October 23, 2018, between **SOUTH LONDON HOLDINGS, LLC**, a limited liability company organized and existing pursuant to the laws of the State of Delaware, with an address of 2711 Centerville Road, Suite 400, Wilmington, DE 19808 (the "Mortgagor") and **CVCF-WAB FUND I, LLC**, a Delaware limited liability company with offices at 895 Dove Street, Suite 120, Newport Beach, CA 92660 (together with its successors and assigns, the "Lender")

1. MORTGAGE AND OBLIGATIONS

1.1 **Mortgage.** For valuable consideration paid and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mortgagor hereby irrevocably and unconditionally mortgages, grants, bargains, transfers, sells, conveys, sets over and assigns to the Lender and its successors and assigns forever, all of Mortgagor's right, title and interest in and to the Property (as hereinafter defined) to secure the prompt payment and performance of the Obligations (as hereinafter defined), including, without limitation, all amounts due and owing to the Lender and all obligations respecting that certain Note, dated as of the date hereof, by the Mortgagor in favor of the Lender in the original principal amount of **\$2,175,000.00** (the "Note"), the Guaranty, the Assignment of Rents & Leases, the Environmental Indemnity Agreement, the Pledge and Security Agreement, the Loan Agreement and all other agreements, documents, certificates and instruments delivered in connection therewith, together with this Mortgage, the "Loan Documents"), and any substitutions, modifications, extensions or amendments to any of the Loan Documents. The Note evidences Mortgagor's obligation to repay loans and any and all advances made pursuant to the terms of a Loan Agreement (the "Loan Agreement") by and between Mortgagor and Mortgagee dated even date herewith.

The amount of principal obligations outstanding and evidenced by the Loan Documents and secured by this Mortgage total **\$2,175,000.00** as of the date of this Mortgage but this Mortgage shall nevertheless secure payment and performance of all Obligations.

1.2 **Security Interest in Fixtures.** As continuing security for the Obligations the Mortgagor hereby pledges, assigns and grants to the Lender, and its successors and assigns, a security interest in any of the Property constituting personal property or fixtures. This Mortgage is and shall be deemed to be a security agreement and financing statement pursuant to the terms of the Uniform Commercial Code of Illinois (the "Uniform Commercial Code") as to any and all personal property and fixtures and as to all such property the Lender shall have the rights and remedies of a secured party under the Uniform Commercial Code in addition to its rights hereunder. This Mortgage constitutes a financing statement and a fixture filing under the Uniform Commercial Code covering any property which now is or later may become a fixture.

1.3 **Security Agreement in other Property.** As security for the payment of the Obligations and satisfaction by Mortgagor of all covenants and undertakings contained in this Agreement and the other Loan Documents, Mortgagor hereby assigns and grants to Lender, a continuing Lien on and security interest in, upon and to all assets of Mortgagor, including but not limited to the following property, all whether now owned or hereafter acquired, created or arising and wherever located (the "Collateral"): (a) Accounts; (b) Chattel Paper; (c) Documents; (e) Instruments; (f) Inventory; (g) General Intangibles; (h) Equipment; (h) All Deposit Accounts and Escrow Accounts; (i) Goods; (j) Letter of Credit Rights; (k) Supporting Obligations; (l) Investment Property; (m) Commercial Tort Claims; (n) all Property of Mortgagor, now or hereafter in Lender's possession, including monies now or hereafter held by Lender in connection with the loan represented by the Note; and (o) the Proceeds (including, without limitation,

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insurance proceeds), whether cash or non-cash, of all of the foregoing property described in clauses (a) through (n). Additionally, the Property is subject to that certain Redevelopment Agreement by and between the Village of Elk Grove (the "Village"), Elk Grove Holdings, LLC and Mortgagor, recorded August 1, 2018 as Document No. 1821345043 (the "Redevelopment Agreement"). The Redevelopment Agreement provides, amongst other things, for reimbursement to Mortgagor by the Village of the cost of TIF Improvements (as defined in the Redevelopment Agreement). Without limiting anything contained in this Section 1.3 or elsewhere in this Mortgage, Mortgagor hereby assigns and grants to Lender, a continuing Lien on and security interest in all of Mortgagor's rights and interest in and to all such reimbursements and other sums payable by the Village to Mortgagor under the Redevelopment Agreement. Mortgagor shall cooperate with Lender, and execute such documents and instruments as may be necessary or desirable, in securing the Village's recognition of the Lien and security interest granted to Lender in such rights and interest of Mortgagor under the Redevelopment Agreement.

1.4 **Power of Attorney.** Each of the officers of Lender is hereby irrevocably made, constituted and appointed the true and lawful attorney for Mortgagor during such time as any Obligations are outstanding (without requiring any of them to act as such) with full power of substitution to do the following: (a) endorse the name of Mortgagor upon any and all checks, drafts, money orders and other instruments for the payment of monies that are payable to Mortgagor and constitute collections on Mortgagor's Accounts or proceeds of other Collateral; (b) execute and/or file in the name of Mortgagor any financing statements, schedules, assignments, instruments, documents and statements that Mortgagor is obligated to give Lender hereunder or is necessary to perfect (or continue or evidence the perfection of such security interest or Lien) Lender's security interest or Lien in the Collateral; and (c) during the continuance of an Event of Default, do such other and further acts and deeds in the name of Mortgagor that Lender may reasonably deem necessary or desirable to enforce any Account or other Collateral.

1.5 **Collateral Assignment of Leases and Rents.** The Mortgagor hereby irrevocably and unconditionally assigns to the Lender, and its successors and assigns, as collateral security for the Obligations all of the Mortgagor's rights and benefits under any and all Leases (as hereinafter defined) and any and all rents, income, issues, profits and other amounts now or hereafter owing with respect to the Leases or the use or occupancy of the Property ("Rents"). This collateral assignment shall be absolute and effective immediately, but the Mortgagor shall have a license, revocable by the Lender, to continue to collect the Rents owing under the Leases until an Event of Default (as hereinafter defined) occurs and the Lender exercises its rights and remedies to collect such Rents as set forth herein.

1.6 **Conditions to Grant.** The Lender shall have and hold the Property (defined below) unto and to the use and benefit of the Lender, and its successors and assigns, forever; provided, however, the conveyances, grants and assignments contained in this Mortgage are upon the express condition that, if Mortgagor shall irrevocably pay and perform the Obligations in full, including, without limitation, all principal, interest and premium thereon and other charges, if applicable, in accordance with the terms and conditions in the Loan Documents and this Mortgage, shall pay and perform all other Obligations as set forth in this Mortgage and shall abide by and comply with each and every covenant and condition set forth herein and in the Loan Documents, the conveyances, grants and assignments contained in this Mortgage shall be appropriately released and discharged.

1.7 **Property.** The term "Property," as used in this Mortgage, shall mean that certain parcel of land at Lot 3, commonly known as a part of 980 Elk Grove Town Center, Elk Grove Village, IL 60007 and the fixtures, structures and improvements and all personal property constituting fixtures, as that term is defined in the Uniform Commercial Code, now or hereafter thereon located at the Property, as more particularly described in Exhibit A attached hereto, together with: (i) all rights now or hereafter existing, belonging, pertaining or appurtenant thereto; (ii) all judgments, awards of damages and settlements hereafter made as a result or in lieu of any Taking (as hereinafter defined); (iii) all of the rights and benefits of the Mortgagor under any present or future leases and agreements relating to the Property,

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including, without limitation, Rents or the use or occupancy thereof together with any extensions and renewals thereof, specifically excluding all duties or obligations of the Mortgagor of any kind arising thereunder (the "Leases"); and (iv) all contracts, permits and licenses respecting the use, operation or maintenance of the Property.

1.8 **Obligations.** The term "Obligation(s)," as used in this Mortgage, shall mean without limitation all loans, advances, indebtedness, notes, liabilities, liquidated or unliquidated, now or hereafter owing by the Mortgagor to the Lender or any Lender Affiliate at any time, of each and every kind, nature and description, whether arising under the Loan Agreement, this Mortgage or otherwise, and whether secured or unsecured, direct or indirect (that is, whether the same are due directly by the Mortgagor to the Lender or any Lender Affiliate; or are due indirectly by the Mortgagor to the Lender or any Lender Affiliate as endorser, guarantor or other surety, or as obligor of obligations due third persons which have been endorsed or assigned to the Lender or any Lender Affiliate, or otherwise), absolute or contingent, due or to become due, now existing or hereafter contracted, including, without limitation, payment of all amounts outstanding when due pursuant to the terms of the Loan Documents. Said term shall also include all interest and other charges chargeable to the Mortgagor or due from the Mortgagor to the Lender or any Lender Affiliate from time to time and all advances, costs and expenses referred to in this Mortgage, including without limitation the costs and expenses (including reasonable attorney's fees) of enforcement of the Lender's rights hereunder or pursuant to any document or instrument executed in connection herewith.

1.9 **Cross-Collateral.** It is the express intention of the Mortgagor that this Mortgage secure payment and performance of all of the Obligations, whether now existing or hereinafter incurred and regardless of whether such Obligations are or were contemplated by the parties at the time of the granting of this Mortgage. Notice of the continuing grant of this Mortgage shall not be required to be stated on the face of any document evidencing any of the Obligations, nor shall such documents be required to otherwise specify that they are secured hereby. This Mortgage secures, *inter alia*, present and future advances made by the Lender pursuant to the Loan Documents, including, without limitation, advances for the payment of taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Property or the lien of this Mortgage, or expenses incurred by the Lender by reason of default by the Mortgagor, and to enable any completion of the improvements comprising the Property as may be contemplated by the Loan Documents. Nothing contained herein shall impose any obligation on the part of the Lender to make any such additional loan(s) to Mortgagor.

2. REPRESENTATIONS, WARRANTIES AND COVENANTS

2.1 **Representations and Warranties.** The Mortgagor represents and warrants that:

- (a) This Mortgage has been duly executed and delivered by the Mortgagor and is the legal, valid and binding obligation of the Mortgagor enforceable in accordance with its terms, except as limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the enforcement of creditors' rights generally;
- (b) The Mortgagor is the sole legal owner of the Property, holding good and marketable fee simple title to the Property, subject to no liens, encumbrances, leases, security interests or rights of others, other than as set forth in detail in Exhibit B hereto (the "Permitted Encumbrances");
- (c) The Mortgagor is the sole legal owner of the entire lessor's interest in Leases, if any, with full power and authority to encumber the Property in the manner set forth herein, and the Mortgagor has not executed any other assignment of Leases or any of the rights or Rents arising thereunder;

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- (d) As of the date hereof, there are no Hazardous Materials in, on or under the Property, except as disclosed in writing to and acknowledged by the Lender;
- (e) Mortgagor shall fully and completely utilize the proceeds from the Note to complete tenant improvements and capital improvements to the Property prior to the Maturity Date as set forth herein; and
- (f) Each Obligation is a commercial obligation and does not represent a loan used for personal, family or household purposes and is not a consumer transaction.

2.2 **Recording; Further Assurances.** The Mortgagor covenants that it shall, at its sole cost and expense and upon the request of the Lender, cause this Mortgage, and each amendment, modification or supplement hereto, to be recorded and filed in such manner and in such places, and shall at all times comply with all such statutes and regulations as may be required by law in order to establish, preserve and protect the interest of the Lender in the Property and the rights of the Lender under this Mortgage. Mortgagor will from time to time execute and deliver to the Lender such documents, and take or cause to be taken, all such other or further action, as the Lender may request in order to effect and confirm or vest more securely in the Lender all rights contemplated by this Mortgage (including, without limitation, to correct clerical errors) or to vest more fully in, or assure to the Lender the security interest in, the Property or to comply with applicable statute or law. To the extent permitted by applicable law, Mortgagor authorizes the Lender to file financing statements, continuation statements or amendments, and any such financing statements, continuation statements or amendments may be filed at any time in any jurisdiction. The Lender may at any time and from time to time file financing statements, continuation statements and amendments thereto that describe the Property as defined in this Mortgage and which contain any other information required by Article 9 of the Uniform Commercial Code for the sufficiency or filing office acceptance of any financing statement, continuation statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor; Mortgagor also authorizes the Lender to file financing statements describing any agricultural liens or other statutory liens held by the Lender. Mortgagor agrees to furnish any such information to the Lender promptly upon request. In addition, Mortgagor shall at any time and from time to time, take such steps as the Lender may reasonably request for the Lender (i) to obtain an acknowledgment, in form and substance satisfactory to the Lender, or any bailee having possession of any of the Property that the bailee holds such Property for the Lender, and (ii) otherwise to insure the continued perfection and priority of the Lender's security interest in any of the Property and the preservation of its rights therein. Mortgagor hereby constitutes the Lender its attorney-in-fact to execute and file all filings required or so requested for the foregoing purposes, all acts of such attorney being hereby ratified and confirmed; and such power, being coupled with an interest, shall be irrevocable until this Mortgage terminates in accordance with its terms, all Obligations are paid in full and the Property is released.

2.3 **Restrictions on the Mortgagor.** The Mortgagor covenants that it will not, nor will it permit any other person to, directly or indirectly, without the prior written approval of the Lender in each instance:

- (a) Sell, convey, assign, transfer, mortgage, pledge, hypothecate, lease or dispose of all or any part of any legal or beneficial interest in the Mortgagor or the Property or any part thereof or permit any of the foregoing, except as expressly permitted by the terms of this Mortgage;
- (b) Mortgagor and Guarantor will not, and will not cause or permit any of their respective affiliates to, solicit offers for, advertise the Property for, or otherwise obtain any other debt or equity financing with respect to the Property with any party other than Lender, or take any action in furtherance of the foregoing;

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- (c) Permit the use, generation, treatment, storage, release or disposition of any Hazardous Materials; or
- (d) Permit to be created or suffer to exist any mortgage, lien, security interest, attachment or other encumbrance or charge on the Property or any part thereof or interest therein (except for the Permitted Encumbrances), including, without limitation, (i) any lien arising under any Federal, state or local statute, rule, regulation or law pertaining to the release or cleanup of Hazardous Materials and (ii) any mechanics' or materialmen's lien. The Mortgagor further agrees to give the Lender prompt written notice of the imposition, or notice, of any lien referred to in this Section and to take any action necessary to secure the prompt discharge or release of the same. The Mortgagor agrees to defend its title to the Property and the Lender's interest therein against the claims of all persons and, unless the Lender requests otherwise, to appear in and diligently contest, at the Mortgagor's sole cost and expense, any action or proceeding that purports to affect the Mortgagor's title to the Property or the priority or validity of this Mortgage or the Lender's interest hereunder.

2.4 Operation of Property. The Mortgagor covenants and agrees as follows:

- (a) The Mortgagor will not permit the Property to be used for any unlawful or improper purpose, will at all times comply with all Federal, state and local laws, ordinances and regulations, and the provisions of any Lease, easement or other agreement affecting all or any part of the Property, and will obtain and maintain all governmental or other approvals relating to the Mortgagor, the Property or the use thereof, including without limitation, any applicable zoning or building codes or regulations and any laws or regulations relating to the handling, storage, release or cleanup of Hazardous Materials, and will give prompt written notice to the Lender of (i) any violation of any such law, ordinance or regulation by the Mortgagor or relating to the Property, (ii) receipt of notice from any Federal, state or local authority alleging any such violation and (iii) the presence or release on the Property of any Hazardous Materials;
- (b) The Mortgagor will at all times keep the Property insured for such losses or damage, in such amounts and by such companies as may be required by law and which the Lender may require, provided that, in any case, the Mortgagor shall maintain: (i) physical hazard insurance on an "all risks" basis in an amount not less than 100% of the full replacement cost of the Property; (ii) flood insurance if and as required by applicable Federal law and as otherwise required by the Lender; (iii) comprehensive commercial general liability insurance; (iv) rent loss and business interruption insurance; and (v) such other insurance as the Lender may require from time to time, including builder's risk insurance in the case of construction loans. All policies regarding such insurance shall be issued by companies licensed to do business in the state where the policy is issued and also in the state where the Property is located, be otherwise acceptable to the Lender, provide deductible amounts acceptable to the Lender, name the Lender as mortgagee, loss payee and additional insured, and provide that no cancellation or material modification of such policies shall occur without at least thirty (30) days prior written notice to the Lender. Such policies shall include (i) a mortgage endorsement determined by the Lender in good faith to be equivalent to the "standard" mortgage endorsement so that the insurance, as to the interest of the Lender, shall not be invalidated by any act or neglect of the Mortgagor or the owner of the Property, any foreclosure or other proceedings or notice of sale relating to the Property, any change in the title to or ownership of the Property, or the occupation or use of the Property for purposes more hazardous than are permitted at the date of inception of such insurance policies; (ii) a replacement cost endorsement; (iii) an agreed amount endorsement; (iv) a contingent liability from operation endorsement; and

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- (v) such other endorsements as the Lender may request. The Mortgagor will furnish to the Lender upon request such original policies, certificates of insurance or other evidence of the foregoing as are acceptable to the Lender. The terms of all insurance policies shall be such that no coinsurance provisions apply, or if a policy does contain a coinsurance provision, the Mortgagor shall insure the Property in an amount sufficient to prevent the application of the coinsurance provisions;
- (c) Mortgagor will not enter into or modify the Leases in any material respect without the prior written consent of the Lender, execute any assignment of the Leases except in favor of the Lender, or accept any rents under any Lease for more than one month in advance and will at all times perform and fulfill every term and condition of the Leases;
- (d) Mortgagor will at all times (i) maintain complete and accurate records and books regarding the Property in accordance with generally accepted accounting principles and (ii) permit the Lender and the Lender's agents, employees and representatives, at such reasonable times as the Lender may request, to enter and inspect the Property and such books and records; and
- (e) Mortgagor will at all times keep the Property in good and first-rate repair and condition (damage from casualty not excepted) and will not commit or permit any strip, waste, impairment, deterioration or alteration of the Property or any part thereof.
- (f) If at any time Lender is not in receipt of written evidence that all insurance required hereunder is maintained in full force and effect, Lender shall have the right (but not the obligation), upon notice to Mortgagor, to take such action as Lender deems necessary to protect Lender's interest in the Property, including, without limitation, the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate and all Insurance Premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Mortgagor to Lender upon demand and until paid shall be secured by the Mortgage and shall bear interest at the Default Rate.
- (g) The Borrower shall not cause or permit any one or more of the following substances to be disposed of in any manner in violation of applicable laws which might result in any material liability to the Borrower on, under, or at any real property which is operated by the Borrower or in which the Borrower has any interest:
1. those substances included within the definitions of "hazardous substances," "hazardous materials" or "toxic substances", in CERCLA, EPCRA, Toxic Substances Control Act, Federal Insecticide, Fungicide and Rodenticide Act and the Hazardous Materials Transportation Act (49 U.S.C. §1801, et seq.);
 2. such other substances, materials and wastes which at the time in question are regulated as hazardous or toxic under applicable local, state or federal law, or which are classified as hazardous or toxic under federal, state, or local laws or regulations; and
 3. any material, waste or substance which is (i) asbestos, (ii) polychlorinated biphenyls, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Clean Water Act, 33 U.S.C. §1251, et seq. (33 U.S.C. §1321) or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. §1317), (iv) explosives, (v) radioactive materials, or (vi) petroleum, petroleum products or any fraction thereof.

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- (h) The Borrower shall not use, nor knowingly allow any tenants or others to, use or lease any portion of the Property (i) in connection with any marijuana-related activity (including leasing such real property to any marijuana-related business), whether or not such activity is legal under applicable local or state law; and/or (ii) for any purpose that is not legal under any applicable federal or state laws.
- (i) Neither the Borrower nor the Guarantor shall not use the Property primarily for family, personal, or household uses.

2.5 **Payments.** The Mortgagor covenants to pay when due: all Federal, state, municipal, real property and other taxes, betterment and improvement assessments and other governmental levies, water rates, sewer charges, insurance premiums and other charges on the Property, this Mortgage or any Obligation secured hereby that could, if unpaid, result in a lien on the Property or on any interest therein. If and when requested by the Lender, the Mortgagor shall deposit from time to time with the Lender sums determined by the Lender to be sufficient to pay when due the amounts referred to in this Section. The Mortgagor shall have the right to contest any notice, lien, encumbrance, claim, tax, charge, betterment assessment or premium filed or asserted against or relating to the Property; provided that it contests the same diligently and in good faith and by proper proceedings and, at the Lender's request, provides the Lender with adequate cash security, in the Lender's reasonable judgment, against the enforcement thereof. The Mortgagor shall furnish to the Lender the receipted real estate tax bills or other evidence of payment of real estate taxes for the Property within thirty (30) days prior to the date from which interest or penalty would accrue for nonpayment thereof. The Mortgagor shall also furnish to the Lender evidence of all other payments referred to above within fifteen (15) days after written request therefor by the Lender. If Mortgagor shall fail to pay such sums, the Lender may, but shall not be obligated to, advance such sums. Any sums so advanced by the Lender shall be added to the Obligations, shall bear interest at the highest rate specified in any note evidencing the Obligations, and shall be secured by the lien of this Mortgage.

2.6 **Tax and Insurance Deposits.** Notwithstanding the existence of a Tax Reserve, Insurance Reserve and an Evergreen Tax Reserve, the Mortgagor shall together with its monthly interest payment, deposit with the Lender and pay, one twelfth (1/12th) of the annual charges for insurance premiums and real estate taxes, assessments, water, sewer and other charges which might become a lien upon the Mortgaged Property (or any part thereof). In the event the Tax Reserve is insufficient to pay the Taxes, or in the event the Mortgagor fails to timely pay any premiums for any insurance required hereunder, or if otherwise required by the Lender, the Mortgagor shall simultaneously therewith deposit with the Lender a sum of money which, will be sufficient to make each of the payments aforementioned at least thirty (30) days prior to the date on which such payments are due. Should said charges not be ascertainable at the time any deposit is required to be made with the Lender, the deposit shall be made on the basis of an estimate made by the Lender in its sole reasonable discretion, and when the charges are fixed for the then current year, the Mortgagor shall deposit any deficiency with the Lender. All funds so deposited with the Lender shall be held by it, but not in a reserve escrow and, except to the extent required by applicable law, without interest, and shall be applied in payment of the insurance premiums and taxes when and as payable, to the extent the Lender shall have such funds on hand in each such fund provided that no "Event of Default" (as defined herein), shall have occurred and be continuing. Should an Event of Default occur and be continuing, the funds deposited with the Lender, as aforementioned, may be applied in payment of the charges for which such funds shall have been deposited or to the payment of the Obligations or any other charges affecting the security of the Lender, as the Lender reasonably sees fit, but no such application shall be deemed to have been made by operation of law or otherwise until actually made by the Lender as herein provided, nor shall any application be deemed to affect any right or remedy of the Lender hereunder or under any statute or rule of law. If deposits are being made with the Lender, the Mortgagor shall furnish the Lender with bills for the charges for which such deposits are required to be made hereunder and/or such other documents necessary for the payment of same, at least fifteen (15) days prior to the date on which the charges first become payable.

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2.7 **Notices; Notice of Default.** The Mortgagor will deliver to the Lender, promptly upon receipt of the same, copies of all notices or other documents it receives that affect the Property or its use, or claim that the Mortgagor is in default in the performance or observance of any of the terms hereof or that the Mortgagor or any tenant is in default of any terms of the Leases. The Mortgagor further agrees to deliver to the Lender written notice promptly upon the occurrence of any Event of Default hereunder or event that with the giving of notice or lapse of time, or both, would constitute an Event of Default hereunder.

2.8 **Takings.** In case of any condemnation or expropriation for public use of, or any damage by reason of the action of any public or governmental entity or authority to, all or any part of the Property (a "Taking"), or the commencement of any proceedings or negotiations that might result in a Taking, the Mortgagor shall immediately give written notice to the Lender, describing the nature and extent thereof. The Lender may, at its option, appear in any proceeding for a Taking or any negotiations relating to a Taking and the Mortgagor shall immediately give to the Lender copies of all notices, pleadings, determinations and other papers relating thereto. The Mortgagor shall in good faith and with due diligence and by proper proceedings file and prosecute its claims for any award or payment on account of any Taking. The Mortgagor shall not settle any such claim without the Lender's prior written consent. The Mortgagor shall hold any amounts received with respect to such awards or claims, by settlement, judicial decree or otherwise, in trust for the Lender and immediately pay the same to the Lender. The Mortgagor authorizes any award or settlement due in connection with a Taking to be paid directly to the Lender in amounts not exceeding the Obligations. The Lender may apply such amounts to the Obligations in such order as the Lender may determine.

2.9 **Insurance Proceeds.** The proceeds of any insurance resulting from any loss with respect to the Property shall be paid to the Lender and, at the option of the Lender, be applied to the Obligations in such order as the Lender may determine; provided, however, that if the Lender shall require repair of the Property, the Lender may release all or any portion of such proceeds to the Mortgagor for such purpose. Any insurance proceeds paid to the Mortgagor shall be held in trust for the Lender and promptly paid to it.

3. CERTAIN RIGHTS OF THE LENDER

3.1 **Legal Proceedings.** The Lender shall have the right, but not the duty, to intervene or otherwise participate in any legal or equitable proceeding that, in the Lender's reasonable judgment, might affect the Property or any of the rights created or secured by this Mortgage. The Lender shall have such right whether or not there shall have occurred an Event of Default hereunder.

3.2 **Appraisals/Assessments.** The Lender shall have the right, at the Mortgagor's sole cost and expense, to obtain appraisals, environmental site assessments or other inspections of the portions of the Property that are real estate at such times as the Lender deems necessary or as may be required by applicable law, or its prevailing credit or underwriting policies.

3.3 **Financial Statements.** The Lender shall have the right, at the Mortgagor's sole cost and expense, to require delivery of financial statements in form and substance acceptable to the Lender from the Mortgagor or any guarantor of any of the Obligations and the Mortgagor hereby agrees to deliver such financial statements and/or cause any such guarantor to so deliver any such financial statement when required by the Lender.

3.4 **Leases and Rent Roll.** The Mortgagor shall deliver to the Lender (i) during each calendar year and at such other times as the Lender shall request a rent roll for the Property, in form acceptable to the Lender, listing all tenants and occupants and describing all of the Leases; and (ii) at such times as the Lender shall request executed copies of all the Leases.

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3.5 **Publicity.** The Lender and/or its affiliates shall have the right to post a sign on the Property stating that financing was provided by Lender and/or its affiliates. The Mortgagor further agrees that the Lender and/or its affiliates may release publicity articles or advertisements featuring the Property and the amount of the Loan.

4. DEFAULTS AND REMEDIES

4.1 **Events of Default.** The occurrence of any one or more of the following conditions or events shall constitute an "Event of Default":

- (a) failure of Mortgagor to pay in full when due any amounts due under the Note or this Mortgage or any of the other Loan Documents;
- (b) breach by Mortgagor of any other obligation, covenant or agreement under this Mortgage or any of the other Loan Documents which, if curable, is not cured within the required cure period;
- (c) default by Mortgagor or any Guarantor under any other agreement with Lender;
- (d) failure of the Mortgagor or any Guarantor to maintain aggregate collateral security value satisfactory to the Lender;
- (e) default of any material liability, obligation or undertaking of the Mortgagor or any Guarantor to any other party, including but not limited to any holder of a lien on the Property;
- (f) if any statement, representation or warranty heretofore, now or hereafter made by the Mortgagor or any Guarantor in connection with this Agreement or any Loan Document or in any Financial Statement of the Mortgagor or any Guarantor shall be determined by the Lender to have been false or misleading in any material respect when made;
- (g) if the Mortgagor or any Guarantor is a corporation, trust, partnership or limited liability company, the liquidation, termination or dissolution of any such organization, or the merger or consolidation of such organization into another entity, or its ceasing to carry on actively its present business or the appointment of a receiver for its property;
- (h) the death of the Mortgagor or any Guarantor or, if the Mortgagor or any Guarantor of the Obligations is a partnership or limited liability company, the death of any partner or member;
- (i) the institution by or against the Mortgagor or any Guarantor of any proceedings under the Bankruptcy Code 11 USC §101 *et seq.* or any other law in which the Mortgagor or any Guarantor is alleged to be insolvent or unable to pay its debts as they mature, or the making by the Mortgagor or any Guarantor of an assignment for the benefit of creditors or the granting by the Mortgagor or any Guarantor of a trust mortgage for the benefit of creditors;
- (j) a judgment or judgments for the payment of money shall be rendered against the Mortgagor or any Guarantor, and any such judgment shall remain unsatisfied and in effect for any period of thirty (30) consecutive days without a stay of execution;

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- (k) any levy, lien (including mechanics lien), seizure, attachment, execution or similar process shall be issued or levied on any of the property of the Mortgagor or any Guarantor;
- (l) the termination or revocation of the Guaranty by any Guarantor;
- (m) the occurrence of such a change in the condition or affairs (financial or otherwise) of the Mortgagor or any Guarantor, or the occurrence of any other event or circumstance, such that the Lender, in its sole discretion, deems that it is insecure or that the prospects for timely or full payment or performance of any obligation of the Mortgagor or any Guarantor to the Lender has been or may be impaired;
- (n) title to the Property is or becomes unsatisfactory to the Lender by reason of any lien, charge, encumbrance, title condition or exception (including without limitation, any mechanic's, materialman's or similar statutory or common-law lien or notice thereof), and such matter causing title to be or become unsatisfactory is not cured or removed (including by bonding) within ten (10) days after notice thereof from the Lender to the Mortgagor;
- (o) a material default has occurred by Mortgagor or a tenant under any Lease on the Property.

4.2 **Remedies.** On the occurrence of any Event of Default the Lender may, at any time thereafter, at its option and, to the extent permitted by applicable law, without notice, exercise any or all of the following remedies:

- (a) Declare the Obligations due and payable, and the Obligations shall thereupon become immediately due and payable, without presentment, protest, demand or notice of any kind, all of which are hereby expressly waived by the Mortgagor except for Obligations due and payable on demand, which shall be due and payable on demand whether or not an event of default has occurred hereunder;
- (b) Enter, take possession of, manage and operate the Property (including all personal property and all records and documents pertaining thereto) and any part thereof and exclude the Mortgagor therefrom, take all actions it deems necessary or proper to preserve the Property and operate the Property as a Lender in possession with all the powers as could be exercised by a receiver or as otherwise provided herein or by applicable law; provided, however, the entry by the Lender upon the Property for any reason shall not cause the Lender to be a Lender in possession, except upon the express written declaration of the Lender;
- (c) With or without taking possession, receive and collect all Rents from the Property (including all real estate and personal property and whether past due or thereafter accruing), including as may arise under the Leases, and the Mortgagor appoints the Lender as its true and lawful attorney with the power for the Lender in its own name and capacity to demand and collect Rents and take any action that the Mortgagor is authorized to take under the Leases. The Lender shall (after payment of all costs and expenses incurred) apply any Rents received by it to the Obligations in such order as the Lender determines, or in accordance with any applicable statute, and the Mortgagor agrees that exercise of such rights and disposition of such funds shall not be deemed to cure any default or constitute a waiver of any foreclosure once commenced nor preclude the later commencement of foreclosure for breach thereof. The Lender shall be liable to

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account only for such Rents actually received by the Lender. Lessees under the Leases are hereby authorized and directed, following notice from the Lender, to pay all amounts due the Mortgagor under the Leases to the Lender, whereupon such lessees shall be relieved of any and all duty and obligation to the Mortgagor with respect to such payments so made;

- (d) In addition to any other remedies, to sell the Property or any part thereof or interest therein pursuant to exercise of its power of sale or otherwise at public auction on terms and conditions as the Lender may determine, or otherwise foreclose this Mortgage in any manner permitted by law, and upon such sale the Mortgagor shall execute and deliver such instruments as the Lender may request in order to convey and transfer all of the Mortgagor's interest in the Property, and the same shall operate to divest all rights, title and interest of the Mortgagor in and to the Property. In the event this Mortgage shall include more than one parcel of property or subdivision (each hereinafter called a "portion"), the Lender shall, in its sole and exclusive discretion and to the extent permitted by applicable law, be empowered to foreclose upon any such portion without impairing its right to foreclose subsequently upon any other portion or the entirety of the Property from time to time thereafter. In addition, the Lender may in its sole and exclusive discretion subordinate this Mortgage to one or more Leases for the sole purpose of preserving any such Lease in the event of a foreclosure;
- (e) Cause one or more environmental assessments to be taken, arrange for the cleanup of any Hazardous Materials or otherwise cure the Mortgagor's failure to comply with any statute, regulation or ordinance relating to the presence or cleanup of Hazardous Materials, and the Mortgagor shall provide the Lender or its agents with access to the Property for such purposes; provided that the exercise of any of such remedies shall not be deemed to have relieved the Mortgagor from any responsibility therefor or given the Lender "control" over the Property or cause the Lender to be considered to be a Lender in possession, "owner" or "operator" of the Property for purposes of any applicable law, rule or regulation pertaining to Hazardous Materials; and
- (f) Take such other actions or proceedings as the Lender deems necessary or advisable to protect its interest in the Property and ensure payment and performance of the Obligations, including, without limitation, appointment of a receiver (and the Mortgagor hereby waives any right to object to such appointment) and exercise of any of the Lender's remedies provided herein or in any other document evidencing, securing or relating to any of the Obligations or available to a secured party under the Uniform Commercial Code or under other applicable law.
- (g) In addition to all other rights, options and remedies granted or available to Lender under this Agreement or the Loan Documents (each of which is also then exercisable by Lender), or otherwise available at law or in equity, upon or at any time after the acceleration of the Obligations following the occurrence of an Event of Default, Lender may, in its discretion, exercise all rights under the Illinois Uniform Commercial Code with respect to the Collateral and any other applicable law or in equity, and under all Loan Documents permitted to be exercised after the occurrence of an Event of Default, including the following rights and remedies (which list is given by way of example and is not intended to be an exhaustive list of all such rights and remedies):
- (1) The right to take possession of, send notices regarding and collect directly the Collateral, with or without judicial process (including without limitation the right to notify the United States postal authorities to redirect mail addressed to

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- Mortgagor to an address designated by Lender); or
- (2) By its own means or with judicial assistance, enter Mortgagor's premises and take possession of the Collateral, or render it unusable, or dispose of the Collateral on such premises in compliance with subsection (5) below, without any liability for rent, storage, utilities or other sums, and Mortgagor shall not resist or interfere with such action;
 - (3) Require Mortgagor at Mortgagor's expense to assemble all or any part of the Collateral (other than real estate or fixtures) and make it available to Lender at any place designated by Lender; or
 - (4) In addition to all other rights, options and remedies granted or available to Lender under this Agreement or the Loan Documents (each of which is also then exercisable by Lender), or otherwise available at law or in equity, upon or at any time after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at the request of Lender, notify Account Debtors and other persons obligated on any of the Collateral of the security interest of Mortgagor in any Account, Chattel Paper, General Intangible, Instrument or other Collateral and that payment thereof is to be made directly to Lender or to any financial institution designated by Lender as Lender's agent therefor, and Lender may itself, without notice to or demand upon Mortgagor, so notify Account Debtors and other persons obligated on Collateral. After the making of such a request or the giving of any such notification, Mortgagor shall hold any proceeds of collection of Accounts, Chattel Paper, General Intangibles, Instruments and other Collateral received by Mortgagor as trustee for Lender without commingling the same with other funds of Mortgagor and shall turn the same over to Lender in the identical form received, together with any necessary endorsements or assignments. Lender shall apply the proceeds of collection of Accounts, Chattel Paper, General Intangibles, Instruments and other Collateral received by Lender to the Obligations, such proceeds to be immediately entered after final payment in cash or other immediately available funds of the items giving rise to them.
 - (5) Mortgagor hereby agrees that a notice received by it at least ten (10) days before the time of any intended public sale or of the time after which any private sale or other disposition of the Collateral is to be made, shall be deemed to be reasonable notice of such sale or other disposition. If permitted by applicable law, any perishable inventory or Collateral which threatens to speedily decline in value or which is sold on a recognized market may be sold immediately by Lender without prior notice to Mortgagor. Mortgagor covenants and agrees not to interfere with or impose any obstacle to Lender's exercise of its rights and remedies with respect to the Collateral, after the occurrence of an Event of Default hereunder. Lender shall have no obligation to clean up or prepare the Collateral for sale. If Lender sells any of the Collateral upon credit, Mortgagor will only be credited with payments actually made by the purchaser thereof, that are received by Lender. Lender may, in connection with any sale of the Collateral specifically disclaim any warranties of title or the like.
- (h) In addition, the Lender shall have all other remedies provided by applicable law, including, without limitation, the right to pursue a judicial sale of the Property or any portion thereof by deed, assignment or otherwise.

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The Mortgagor agrees and acknowledges that the acceptance by the Lender of any payments from either the Mortgagor or any guarantor after the occurrence of any Event of Default, the exercise by the Lender of any remedy set forth herein or the commencement, discontinuance or abandonment of foreclosure proceedings against the Property shall not waive the Lender's subsequent or concurrent right to foreclose or operate as a bar or estoppel to the exercise of any other rights or remedies of the Lender. The Mortgagor agrees and acknowledges that the Lender, by making payments or incurring costs described herein, shall be subrogated to any right of the Mortgagor to seek reimbursement from any third parties, including, without limitation, any predecessor in interest to the Mortgagor's title or other party who may be responsible under any law, regulation or ordinance relating to the presence or cleanup of Hazardous Materials.

4.3 **Advances.** If the Mortgagor fails to pay or perform any of its obligations respecting the Property, the Lender may in its sole discretion do so without waiving or releasing Mortgagor from any such obligation. Any such payments may include, but are not limited to, payments for taxes, assessments and other governmental levies, water rates, insurance premiums, maintenance, repairs or improvements constituting part of the Property. Any amounts paid by the Lender hereunder shall be, until reimbursed by the Mortgagor, part of the Obligations and secured by this Mortgage, and shall be due and payable to the Lender, on demand, together with interest thereon to the extent permitted by applicable law, at the highest rate permitted under any of the notes evidencing the Obligations.

4.4 **Cumulative Rights and Remedies.** All of the foregoing rights, remedies and options (including without limitation the right to enter and take possession of the Property, the right to manage and operate the same, and the right to collect Rents, in each case whether by a receiver or otherwise) are cumulative and in addition to any rights the Lender might otherwise have, whether at law or by agreement, and may be exercised separately or concurrently and none of which shall be exclusive of any other. The Mortgagor further agrees that the Lender may exercise any or all of its rights or remedies set forth herein without having to pay the Mortgagor any sums for use or occupancy of the Property.

5. MISCELLANEOUS

5.1 **Costs and Expenses.** To the extent permitted by applicable law, the Mortgagor shall pay to the Lender, on demand, all reasonable expenses (including attorneys' fees and expenses and reasonable consulting, accounting, appraisal, brokerage and similar professional fees and charges) incurred by the Lender in connection with the Lender's interpretation, recordation of this Mortgage, exercise, preservation or enforcement of any of its rights, remedies and options set forth in this Mortgage and in connection with any litigation, proceeding or dispute whether arising hereunder or otherwise relating to the Obligations, together with interest thereon to the extent permitted by applicable law, until paid in full by the Mortgagor at the highest rate set forth in any of the notes evidencing the Obligations. Any amounts owed by the Mortgagor hereunder shall be, until paid, part of the Obligations and secured by this Mortgage, and the Lender shall be entitled, to the extent permitted by law, to receive and retain such amounts in an action for a deficiency against or redemption by the Mortgagor, or any accounting for the proceeds of a foreclosure sale or of insurance proceeds.

5.2 **Survival of Claims for Costs and Expenses.** It is the parties' intent that the Lender's claim for legal fees, taxes and expenses, including without limitation all costs and insurance premiums, shall survive the entry of a foreclosure judgment. If Lender employs counsel for advice or representation after an Event of Default (whether or not formally declared) relating to the collection or enforcement of this Mortgage, the Note or other Loan Documents or Obligations (whether or not suit is actually instituted), Lender may collect from Mortgagor all of Lender's reasonable expenses and fees, including, without limitation: (a) all reasonable fees and disbursements of counsel to Lender (whether pre-judgment or post-judgment or both, as applicable); (b) all expenses of or in anticipation of litigation, including fees and expenses of witnesses, experts, stenographers, title and lien searchers; and (c) costs incurred by Lender in

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performing any duty or obligation on behalf of Mortgagor, including payment of any tax, government charge or insurance premium, making repairs to the Property, rendering the Property free of Hazardous Materials or liens or performing any lien obligation. The expenses incurred by Lender in performing any of Mortgagor's duties or obligations shall be added to the monies owing under the Note with interest at the rate in effect from time to time under the Note. All such sums shall be secured by this Mortgage and all collateral given to secure any Obligation. Any action taken by Lender pursuant to this section shall not constitute a waiver of any Event of Default or undertaking to perform or complete any of Mortgagor's duties nor shall it impose any future responsibility on Lender to perform any of Mortgagor's duties in the future.

5.3 **Indemnification.** Mortgagor and each Guarantor of the Loan shall indemnify, defend and hold the Lender and its affiliates and their directors, officers, employees, agents and attorneys (each an "Indemnitee") harmless against any claims, obligations, losses, damages, costs and expenses (as well as from attorneys' reasonable fees and expenses in connection therewith) (collectively, "Claims") incurred or asserted against any Indemnitee by any third person on account of: (a) any suit or proceeding (including probate and bankruptcy proceedings) in or to which an Indemnitee may or does become a party, either as plaintiff or as a defendant, by reason of this Loan; and (b) the ownership, leasing, use, operation or maintenance of the Property, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Property to Lender in accordance with the terms of the Loan Documents; provided, however, that Mortgagor shall not be obligated to indemnify or hold an Indemnitee harmless from and against any Claims arising out of the gross negligence or willful misconduct of any Indemnitee..

5.4 **Waivers.** The Mortgagor waives notice of nonpayment, demand, presentment, protest or notice of protest of the Obligations and all other notices, consents to any renewals or extensions of time of payment thereof, and generally waives any and all suretyship defenses and defenses in the nature thereof. No delay or omission of the Lender in exercising or enforcing any of its rights, powers, privileges, remedies, immunities or discretion (all of which are hereinafter collectively referred to as "the Lender's rights and remedies") hereunder shall constitute a waiver thereof; and no waiver by the Lender of any default of the Mortgagor hereunder or of any demand shall operate as a waiver of any other default hereunder or of any other demand. No term or provision hereof shall be waived, altered or modified except with the prior written consent of the Lender, which consent makes explicit reference to this Mortgage. Except as provided in the preceding sentence, no other agreement or transaction, of whatsoever nature, entered into between the Lender and the Mortgagor at any time (whether before, during or after the effective date or term of this Mortgage) shall be construed as a waiver, modification or limitation of any of the Lender's rights and remedies under this Mortgage (nor shall anything in this Mortgage be construed as a waiver, modification or limitation of any of the Lender's rights and remedies under any such other agreement or transaction) but all the Lender's rights and remedies not only under the provisions of this Mortgage but also under any such other agreement or transaction shall be cumulative and not alternative or exclusive, and may be exercised by the Lender at such time or times and in such order of preference as the Lender in its sole discretion may determine.

5.5 **Joint and Several.** If there is more than one Mortgagor, each of them shall be jointly and severally liable for payment and/or performance of all obligations secured by this Mortgage and the term "Mortgagor" shall include each as well as all of them.

5.6 **Severability.** If any provision of this Mortgage or portion of such provision or the application thereof to any person or circumstance shall to any extent be held invalid or unenforceable, the remainder of this Mortgage (or the remainder of such provision) and the application thereof to other persons or circumstances shall not be affected thereby.

5.7 **Complete Agreement.** This Mortgage and the other Loan Documents constitute the entire agreement and understanding between and among the parties hereto relating to the subject matter hereof,

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and supersedes all prior proposals, negotiations, agreements and understandings among the parties hereto with respect to such subject matter.

5.8 **Binding Effect of Agreement.** This Mortgage shall run with the land and be binding upon and inure to the benefit of the respective heirs, executors, administrators, legal representatives, successors and assigns of the parties hereto, and shall remain in full force and effect (and the Lender shall be entitled to rely thereon) until all Obligations are fully and indefeasibly paid. The Lender may transfer and assign this Mortgage and deliver any collateral to the assignee, who shall thereupon have all of the rights of the Lender; and the Lender shall then be relieved and discharged of any responsibility or liability with respect to this Mortgage and such collateral. Except as expressly provided herein or in the other Loan Documents, nothing, expressed or implied, is intended to confer upon any party, other than the parties hereto, any rights, remedies, obligations or liabilities under or by reason of this Mortgage or the other Loan Documents.

5.9 **Notices.** All notices, demands, requests, consents, approvals and other communications required or permitted hereunder shall be made in accordance with the notice provisions of the Loan Agreement.

5.10 **Governing Law.** The creation, perfection, priority and enforcement of the lien and security interest created by this Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois, and in all other respects this Mortgage shall be governed by the internal laws of the State of New York without regarding to principles of conflicts of laws.

5.11 **Reproductions.** This Mortgage and all documents which have been or may be hereinafter furnished by the Mortgagor to the Lender may be reproduced by the Lender by any photographic, photostatic, microfilm, xerographic or similar process, and any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made in the regular course of business).

5.12 **Lender Affiliates.** The term "Lender Affiliate" as used in this Mortgage shall mean any "Affiliate" of the Lender. The term "Affiliate" shall mean with respect to any person, (a) any person which, directly or indirectly through one or more intermediaries control, or is controlled by, or is under common control with, such person, or (b) any person who is a director or officer (i) of such person, (ii) of any subsidiary of such person, or (iii) any person described in clause (a) above. For purposes of this definition, control of a person shall mean the power, direct or indirect, (x) to vote 5% or more of the Capital Stock having ordinary voting power for the election of directors (or comparable equivalent) of such person, or (y) to direct or cause the direction of the management and policies of such person whether by contract or otherwise. Control may be by ownership, contract, or otherwise.

5.13 **Jurisdiction and Venue.** Except for matters regarding the creation, perfection, priority and enforcement of the lien and security interest created by this Mortgage, which shall be brought in accordance with applicable laws, Mortgagor irrevocably submits to the nonexclusive jurisdiction of any Federal court in New York or any state court sitting in New York County or the county where the Property is located, over any suit, action or proceeding arising out of or relating to this Mortgage. The Mortgagor irrevocably waives, to the fullest extent it may effectively do so under applicable law, any objection it may now or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that the same has been brought in an inconvenient forum. The Mortgagor hereby consents to process being served in any such suit, action or proceeding (i) by the mailing of a copy thereof by registered or certified mail, postage prepaid, return receipt requested, to the Mortgagor's address set forth herein or such other address as has been provided in writing to the Lender and (ii) in any other manner permitted by law, and agrees that such service shall in every respect be deemed effective service upon the Mortgagor.

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5.14 **JURY WAIVER.** THE MORTGAGOR AND THE LENDER EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY, AND AFTER AN OPPORTUNITY TO CONSULT WITH LEGAL COUNSEL, (A) WAIVE ANY AND ALL RIGHTS TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING IN CONNECTION WITH THIS MORTGAGE, THE OBLIGATIONS, ALL MATTERS CONTEMPLATED HEREBY AND DOCUMENTS EXECUTED IN CONNECTION HERewith; (B) AGREE NOT TO CONSOLIDATE ANY SUCH ACTION WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CAN NOT BE, OR HAS NOT BEEN WAIVED AND (C) THE RIGHT TO INTERPOSE ANY COUNTERCLAIM THEREIN. THE MORTGAGOR CERTIFIES THAT NEITHER THE LENDER NOR ANY OF ITS REPRESENTATIVES, AGENTS OR COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE LENDER WOULD NOT IN THE EVENT OF ANY SUCH PROCEEDING SEEK TO ENFORCE THIS WAIVER OF RIGHT TO TRIAL BY JURY.

5.15 **Purchase Money Mortgage.** To the extent all or any part of the Obligations secured by this Mortgage were used in whole or in part to fund the acquisition of all or any part of the Property, this Mortgage shall be a "purchase money mortgage" and shall be accorded the lien priority provided for therein.

5.18 **Additional State Specific Provisions**

(a) **Principles of Construction.** In the event of any inconsistencies between the terms and conditions of this Section 5.18 and the other terms and conditions of this Mortgage, the terms of this Section 5.18 shall control and be binding.

(b) **Benefits of the Act.** Lender may proceed with judicial foreclosure under the real property laws of Illinois, specifically, the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq., including all amendments thereto which may become effective from time to time after the date hereof (the "Act"). Lender may proceed by such judicial action as is available under the Act to enforce the payment of the amounts due under the Note and other Loan Documents and the performance and discharge of the Obligations in accordance with the terms hereof, of the Note, and the other Loan Documents, to foreclose the liens and security interests of this Mortgage as against all or any part of the Property, and to have all or any part of the Property sold under the judgment or decree of a court of competent jurisdiction. This remedy shall be cumulative of any other nonjudicial remedies available to the Lender with respect to the Loan Documents under applicable law. Proceeding with a request or receiving a judgment for legal relief shall not be or be deemed to be an election of remedies or bar any other available remedy of the Lender under the Act or other applicable law. Mortgagor and Lender shall have the benefit of all the provisions of the Act. If any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but that shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee-in-possession) or a receiver appointed pursuant to the terms hereof, any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such receiver under the Act in the absence of said provision, Lender and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated elsewhere in this Mortgage, shall be added to the obligations secured by this Mortgage and/or by the judgment of foreclosure.

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(c) Insurance. Wherever provision is made in this Mortgage or the other Loan Documents for insurance policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Lender, or to confer authority upon Lender to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure all such rights and power of Lender shall continue in Lender as judgment creditor or Lender until confirmation of sale. As required pursuant to the Collateral Protection Act, 815 ILCS 180/10(3), Mortgagor is hereby notified that in the event Mortgagor fails to provide, maintain, keep in force or deliver and furnish to Lender the policies of insurance required by this Mortgage or the other Loan Documents or evidence of their renewal as required herein or in the other Loan Documents, Lender may, but shall not be obligated to, procure such insurance at Mortgagor's expense to protect Lender's interests in the Property. This insurance may, but need not, protect Mortgagor's interests. The coverage Lender purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property. Mortgagor may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Mortgagor has obtained insurance as required by the terms of this Mortgage or the other Loan Documents. If Lender purchases insurance for the Property as set forth herein, Mortgagor shall pay all amounts advanced by Lender, together with interest thereon at the Default Rate from and after the date advanced by Lender until actually repaid by Mortgagor, promptly upon demand by Lender. Any amounts so advanced by Lender, together with interest thereon, shall be secured by this Mortgage and by all of the other Loan Documents securing all or any part of the Indebtedness evidenced by the Note and other Loan Documents. The costs of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

(d) Protective Advances. All advances, disbursements and expenditures made by Lender in accordance with the terms of this Mortgage and the other Loan Documents, either before and during a foreclosure of this Mortgage, and before and after judgment of foreclosure therein, and at any time prior to sale of the Property, and, where applicable, after sale of the Property, and during the pendency of any related proceedings, in addition to those otherwise authorized by the Act shall have the benefit of all applicable provisions of the Act, including without limitation advances, disbursements and expenditures for the following purposes: (1) all advances by Lender in accordance with the terms of the Loan Documents to: (i) preserve, maintain, repair, restore or rebuild the improvements upon the Property; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in Section 15-1302(b)(5) of the Act; (2) payments by Lender of (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (ii) 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 Property or any part thereof; (iii) other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act; (3) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens; (4) reasonable attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Sections 15-1504(d)(2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against Lender for the enforcement of this Mortgage or arising from the interest of Lender hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Mortgage or the Property; (5) Lender's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 15-1508(b)(1) of the Act; (6) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by any of the Loan Documents; (7) expenses deductible from proceeds of sale as referred to in Sections 15-1512(a) and (b) of the Act; and (8) expenses incurred and expenditures made by Lender for any one or more of the following: (i) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Mortgagor's

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interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Lender whether or not Lender 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 Lender takes possession of the Property imposed by Section 15-1704(c)(1) of the Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (vii) if the Loan secured hereby is a construction loan, costs incurred by Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable Loan Document; and (viii) payments required to be paid by Mortgagor or Lender pursuant to any lease or other agreement for occupancy of the Property. All such payments and expenditures shall become due and payable without notice or demand and with interest thereon from the date of payment or advance by Lender until paid at the Default Rate of interest.

(e) Mortgagee in Possession. In addition to any provision of this Mortgage authorizing Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Subsections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and any such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the Act.

(f) Application of Proceeds. Notwithstanding anything contained in this Mortgage to the contrary, the proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with Section 15-1512 of the Act in the following order of priority: first, on account of all reasonable costs and expenses incident to the foreclosure proceedings or such other remedy; second, on account of all reasonable costs and expenses in connection with securing possession of the Property prior to such foreclosure sale, and the reasonable costs and expenses incurred by or on behalf of Lender in connection with holding, maintaining and preparing the Property for sale; third, in satisfaction of all claims in the order of priority adjudicated in the foreclosure judgment or order confirming sale; and fourth, any remainder in accordance with the order of court adjudicating the foreclosure proceeding.

(g) Waiver of Redemption and Reinstatement. To the full extent permitted by law, Mortgagor hereby voluntarily and knowingly waives its rights to reinstatement and redemption to the extent allowed under Sections 15-1601 and 15-1602 of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

(h) Future Advances. This Mortgage is given for the purpose of securing loan advances which Lender may make to or for Mortgagor pursuant and subject to the terms and provisions of this Mortgage and the Loan Documents. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Office of the Recorder of the County in which the Property is located, whether made pursuant to an obligation of mortgagee or otherwise, provided that such advances are made within twenty (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made and all of such indebtedness, including future advances, shall be a lien from the time that this Mortgage is recorded with the Recorder of the County in which the Property is located as

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provided in 735 ILCS 5/15-1302(b). Such loan advances may or may not be evidenced by notes executed pursuant to the Loan Documents.

(i) Amounts Secured Hereby. At all times, regardless of whether any loan proceeds have been disbursed, this Mortgage secures (in addition to the Obligations secured hereby) the payment of any and all service charges, liquidated damages, expenses and advances (whether obligatory or at the option of the Lender) due to or incurred by Lender in connection with the Loan Documents; provided, however, that in no event shall the total amount secured hereby exceed two hundred percent (200%) of the face amount of the Note.

(j) Business Loan Recital/Statutory Exemption. Mortgagor acknowledges and agrees that (A) the proceeds of the loan contemplated by the Loan Documents will be used in conformance with subparagraph (1) of Section 4 of the Illinois Interest Act (815 ILCS 205/0.01, et seq., including Section 4(1) thereof); (B) the Obligations secured hereby have been incurred by Mortgagor solely for business purposes of Mortgagor and for Mortgagor's investment or profit, as contemplated by said Section 4(1); (C) the Obligations secured hereby constitute a loan secured by real estate within the purview of and as contemplated by said Section 4(1); and (D) the secured Obligations are an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 et seq. and has been entered into solely for business purposes of Mortgagor and Mortgagor's investment or profit, as contemplated by said Section. Without limiting the generality of anything contained herein, Mortgagor acknowledges and agrees that the transaction of which this Mortgage is part is a transaction which does not include either agricultural real estate (as defined in 15-1201 of the Act) or residential real estate (as defined in 15-1219 of the Act).

(k) Maturity Date. The Note shall be due and payable in full on or before the maturity date of October 21, 2019, with conditional extension rights as set forth in the Loan Documents, if any, and provided that to the extent that the maturity date of the Note is extended, amended or modified from time to time, the maturity date set forth above shall also be so extended, amended or modified, but under no circumstances will this Mortgage secure Indebtedness advanced under the Loan Documents after that date which is twenty-five (25) years from the maturity date set forth above unless this Mortgage is modified to reflect a new maturity date.

(l) Interest Rate. This Mortgage secures the full and timely payment of the Obligations, including, among other things, the obligation to pay interest on the unpaid principal balance at a per annum rate of interest equal to 8.75% (the "Interest Rate") and from and after the maturity date or the occurrence of an Event of Default at a per annum rate equal to 24% or the maximum permitted by applicable law, whichever is less.


(m) Fixture Filing. This Mortgage also shall constitute a "fixture filing" for the purposes of the Uniform Commercial Code against all of the Property which is or is to become fixtures. Information concerning the security interest herein granted may be obtained at the addresses of debtor (Mortgagor) and secured party (Lender) as set forth in the first paragraph of this Mortgage. Mortgagor is the record owner of the Property.

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IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage on and as of the day and year first above written.

MORTGAGOR:

SOUTH LONDON HOLDINGS, LLC,
a Delaware limited liability company

By: 
Name: Bryan Fishforth
Its: Mortgage

ACKNOWLEDGMENT

STATE OF Pennsylvania)
) SS
COUNTY OF Delaware)

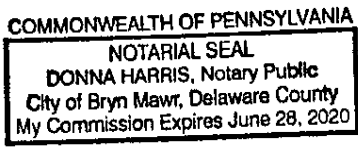
On October 22, 2018, before me, Donna Harris, a Notary Public, personally appeared Bryan Fishforth who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.


I certify under PENALTY OF PERJURY under the laws of the State set forth above that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Donna Harris (Seal)

I Hereby Certify the Address of
The Within Named Grantee is:
1022 East Lancaster Avenue
Bryn Mawr, Pennsylvania 19010



By: 
Print Name: Bryan Fishforth

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LEGAL DESCRIPTION

Parcel 1:

Lot 3 in Elk Grove Town Center subdivision, being a resubdivision in part of the Southwest Quarter of the Northeast Quarter of Section 32, Township 41 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded August 1, 2018 as document no. 1821345039.

Parcel 2:

Non exclusive easement for Ingress, Egress and parking for the benefit of parcel one as created by reciprocal easement agreement between Elk Grove Village, Elk Grove Town Center, L.L.C. And the Board of Trustees of the Village of Elk Grove village dated as of March 13, 1997 and recorded August 5, 1997 as document number 97566666 over the Land West and adjoining as described therein.

Parcel 3:

Non exclusive easement for Ingress, Egress and parking for the benefit of parcel one as created by reciprocal easement agreement between Elk Grove Town Center, L.L.C. And Beverly Trust Company, as trustee under trust agreement dated June 24, 1997 and known as trust number 74-2478 dated July 25, 1997 and recorded August 5, 1997 as document number 97566670 over the Land South and adjoining as described therein.

Parcel 4:

Easements for the benefit of Parcel One as granted by Section 3(a) for ingress and egress; Section 3(D) to use such portions of the granting owner's parcel for the location of and to reconstruct and maintain any roofs, building overhangs, awnings and other similar appurtenances to the grantee's building; section 4 for parking; section five for utility lines; and Section 3(e) for "inline fixtures", of the Declaration of Covenants, Conditions and Restrictions and Grant of Easements recorded August 1, 2018, as document no. 1821345042 and Scrivener's Affidavit recorded September 24, 2018 as document number 1826717019 which includes pages missing from the original August 1, 2018 recording.

Parcel 5:

Non exclusive easements for ingress, egress, and parking for the benefit of parcel one as created by the Declaration of Covenants, Conditions and Restrictions and Grant of Easements recorded August 1, 2018 as document number 1821345042 and Scrivener's Affidavit recorded September 24, 2018 as document number 1826717019.

Property Address: Lot 3, commonly known as a part of 980 Elk Grove Town Center, Elk Grove Village, IL 60007

PIN: 08-32-202-021-0000

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The address of the within Lender is 895 Dove Street, Suite 120, Newport Beach, CA 92660.

CVCF-WAB FUND I, LLC

By: Bill Wang
Name: Bill Wang
Its: Authorized Signatory

Property of Cook County Clerk's Office

COOK COUNTY
RECORDER OF DEEDS

COOK COUNTY
RECORDER OF DEEDS

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EXHIBIT "B"

Permitted Encumbrances

1. Lien of current taxes not yet due and payable.

Property of Cook County Clerk's Office

**COOK COUNTY
RECORDER OF DEEDS**

**COOK COUNTY
RECORDER OF DEEDS**