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2007641150

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud 844-768-1713

Doc# 2007641150 Fee \$125.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 03/16/2020 02:35 PM PG: 1 OF 38

The property identified as: PIN: 13-24-400-006-0000

Address:

Street: 3401 North California Avenue

Street line 2:

City: Chicago

State: IL

ZIP Code: 60618

Lender: Wintrust Bank, N.A.

Borrower: WMS Property, LLC

Loan / Mortgage Amount: \$14,025,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77170 et seq. because it is commercial property.

CCH1802104ALD 6-F7

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INT

Certificate number: 503BAF55-3C35-4B1D-BA77-8D6D6DADEF38

Execution date: 3/13/2020

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This instrument was prepared by
and should be mailed to:

Francis L. Keldermans
Holland & Knight LLP
150 N. Riverside Plaza
Suite 2700
Chicago, Illinois 60606

This space reserved for Recorder's use only.

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

by

WMS PROPERTY, LLC,
an Illinois limited liability company

as Mortgagor

in favor of

WINTRUST BANK, N.A.,
a national banking association

as Mortgagee

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

MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "Mortgage") is made as of the 13th day of March, 2020, by **WMS PROPERTY, LLC**, an Illinois limited liability company ("Mortgagor") in favor of **WINTRUST BANK, N.A.**, a national banking association (together with its successors and permitted assigns, the "Mortgagee"), for the benefit of the Secured Parties:

RECITALS:

A. Pursuant to the terms and conditions of a Loan Agreement dated as of even date herewith (as amended, modified, restated or replaced from time to time, the "Loan Agreement"), by and between Mortgagor, as borrower, and Mortgagee, as lender, Mortgagee has agreed to extend a loan to Mortgagor in the maximum principal amount of FOURTEEN MILLION TWENTY FIVE THOUSAND and 00/100 Dollars (\$14,025,000.00) ("Loan"). All capitalized terms not otherwise defined herein shall have the meanings set forth in the Loan Agreement.

B. Mortgagor has requested that Mortgagee advance the Loan proceeds for the purpose of, among other things, funding the acquisition of the real property legally described on Exhibit A hereto (as more particularly defined below, the "Premises").

C. A condition precedent to Mortgagee entering into the Loan Agreement and Mortgagee's agreement to make the Loan to Mortgagor is the execution and delivery by Mortgagor of this Mortgage to Mortgagee.

AGREEMENTS:

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor agrees as follows:

Mortgagor hereby mortgages, grants, assigns, remises, releases, warrants, hypothecates and conveys to Mortgagee, for the benefit of the Secured Parties, and grants a security interest in all of Mortgagor's right, title and interest in, to and under the following described property, rights and interests (referred to collectively herein as "Premises"), all of which property rights and interests are hereby pledged primarily and on a parity with the Real Estate (as defined below) and not secondarily:

THE REAL ESTATE located in Cook County in the State of Illinois and legally described on Exhibit A attached hereto and made a part hereof ("Real Estate");

TOGETHER WITH all improvements of every nature whatsoever now or hereafter situated on the Real Estate, and all fixtures and personal property of every nature whatsoever now or hereafter owned by Mortgagor and on, or used in connection with the Real Estate or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the

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foregoing and all of the right, title and interest of Mortgagor in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by Mortgagor or on its behalf (collectively, the "Improvements");

TOGETHER WITH all easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Real Estate, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor of, in and to the same;

TOGETHER WITH all rents, revenues, issues, profits, proceeds, income, royalties, "accounts," including "health-care-insurance receivables," escrows, letter-of-credit rights (each as defined in the Code hereinafter defined), security deposits, impounds, reserves, tax refunds and other rights to monies from the Premises and/or the businesses and operations conducted by Mortgagor thereon, to be applied against the Indebtedness (hereinafter defined); provided, however, that Mortgagor, so long as no Event of Default (as hereinafter defined) has occurred and is continuing hereunder, may collect rent as it becomes due, but not more than one (1) month in advance thereof;

TOGETHER WITH all interest of Mortgagor in all leases now or hereafter on the Premises, whether written or oral ("Leases"), together with all security therefor and all monies payable thereunder ("Rents"), subject, however, to the conditional permission hereinabove given to Mortgagor to collect the rentals under any such Leases;

TOGETHER WITH all fixtures and articles of personal property now or hereafter owned by Mortgagor and forming a part of or used in connection with the Real Estate or the Improvements, including, but without limitation, any and all air conditioners, antennas, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor covering, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Real Estate or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by Mortgagor and placed on the Real Estate or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness (as hereinafter defined); notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute goods (as said term is used in the Uniform Commercial Code of the State of Illinois in effect from time to time ("Code")), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in Mortgagee, as a secured party, and Mortgagor, as Debtor, all in accordance with the Code;

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TOGETHER WITH all of Mortgagor's interests in "general intangibles" including "payment intangibles" and "software" (each as defined in the Code) now owned or hereafter acquired and related to the Premises, including, without limitation, all of Mortgagor's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which Mortgagor is or may become a party and which relate to the Premises; (ii) all obligations and indebtedness owed to Mortgagor thereunder; (iii) all intellectual property related to the Premises; and (iv) all choses in action and causes of action relating to the Premises;

TOGETHER WITH all of Mortgagor's accounts now owned or hereafter created or acquired as they relate to the Premises, including, without limitation, all of the following now owned or hereafter created or acquired by Mortgagor: (i) accounts, contract rights, health-care-insurance receivables, book debts, notes, drafts, and other obligations or indebtedness owing to the Mortgagor arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Mortgagor's rights in, to and under all purchase orders for goods, services or other property; (iii) the Mortgagor's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due or to become due to the Mortgagor under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Mortgagor); (v) "securities", "investment property," "financial assets," and "securities entitlements" (each as defined in the Code); and (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and all warranties, guarantees, permits and licenses in favor of Mortgagor with respect to the Premises;

TOGETHER WITH all proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Premises or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Premises or proceeds of any sale, option or contract to sell the Premises or any portion thereof;

TO HAVE AND TO HOLD the Premises, unto Mortgagee, for the benefit of the Secured Parties, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Premises after the occurrence and continuance of any Event of Default; Mortgagor hereby RELEASES AND WAIVES all rights under and by virtue of the homestead exemption laws of the State of Illinois; and

FOR THE PURPOSE OF SECURING: (i) the payment of the Loan and all interest, late charges, prepayment premiums (if any), exit fees (if any), interest rate swap or hedge expenses (if any) and all other indebtedness evidenced by or owing under the Loan Agreement, any of the other Loan Documents, any interest rate swap or hedge agreement now or hereafter entered into between Mortgagee, on the one hand, and Mortgagor, on the other hand, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of Mortgagor or any other obligor to or benefiting Mortgagee which are evidenced or secured by or otherwise provided in the Loan Agreement, this Mortgage or any of the other Loan Documents; and (iii) the reimbursement to Mortgagee of any and all sums incurred, expended or advanced by Mortgagee pursuant to any term or provision of or constituting additional

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indebtedness under or secured by this Mortgage, the Loan Agreement, any of the other Loan Documents, any interest rate swap or hedge agreement, with interest thereon as provided herein or therein (collectively, "Indebtedness").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. **Title.** Mortgagor represents, warrants and covenants that (a) Mortgagor is the holder of the fee simple title to the Real Estate and Improvements, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of Mortgagee, for the benefit of the Secured Parties, and except the liens and encumbrances described on Exhibit B attached hereto (collectively the "Permitted Exceptions") and any Permitted Liens; and (b) Mortgagor has legal power and authority to mortgage, convey and hypothecate the Premises.
2. **Maintenance, Repair, Restoration, Prior Liens, Parking.** Mortgagor covenants that, so long as any portion of the Indebtedness remains unpaid, Mortgagor will:
 - a. promptly repair, restore or rebuild any Improvements now or hereafter on the Premises which may become damaged or be destroyed to a condition substantially similar to the condition immediately prior to such damage or destruction, whether or not proceeds of insurance are available or sufficient for the purpose;
 - b. keep the Premises in good condition and repair, without waste, and free from mechanics', materialmen's or like liens or claims or other liens or claims for lien (subject to Mortgagor's right to contest liens as permitted by the terms of Section 28 hereof);
 - c. pay when due the Indebtedness in accordance with the terms of the Loan Agreement and the other Loan Documents and duly perform and observe all of the terms, covenants and conditions to be observed and performed by Mortgagor under the Loan Agreement, this Mortgage and the other Loan Documents;
 - d. pay when due any indebtedness which may be secured by a Permitted Lien or charge on the Premises on a parity with, superior to or inferior to the lien hereof, and upon request exhibit satisfactory evidence of the discharge of such lien to the Mortgagee (subject to Mortgagor's right to contest liens as permitted by the terms of Section 28 hereof);
 - e. complete within a reasonable time any Improvements now or at any time in the process of erection upon the Premises;
 - f. materially comply with all requirements of law, municipal ordinances or restrictions and covenants of record with respect to the Premises and the use thereof (subject to Mortgagor's right to contest such requirements as permitted by the terms of Section 28 hereof);

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g. obtain and maintain in full force and effect, and abide by and satisfy the material terms and conditions of, all material permits, licenses, registrations and other authorizations with or granted by any governmental authorities that may be required from time to time with respect to the performance of its obligations under this Mortgage;

h. not demolish any portion of the Premises without Mortgagee's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, except (i) for the purpose of making Improvements; (ii) as required by any law or municipal ordinance; or (iii) in connection with any improvements required or permitted to be constructed pursuant to any Lease entered into in accordance with the Loan Documents;

i. suffer or permit no change in the use or general nature of the occupancy of the Premises, without Mortgagee's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed;

j. pay when due all operating costs of the Premises;

k. not initiate or acquiesce in any zoning reclassification with respect to the Premises, without Mortgagee's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed;

l. provide and thereafter maintain adequate parking areas within the Premises as may be required by law, ordinance or regulation (whichever may be greater), together with any sidewalks, aisles, streets, driveways and sidewalk cuts and sufficient paved areas for ingress, egress and right-of-way to and from the adjacent public thoroughfares necessary or desirable for the use thereof; and

m. cause the Premises at all times to be operated in material compliance with all federal, state, local and municipal environmental, health and safety laws, statutes, ordinances, rules and regulations.

3. **Payment of Real Estate Taxes.** Mortgagor will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes") pursuant to Section 7.7 of the Loan Agreement, whether or not assessed against the Mortgagor, if applicable to the Premises or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby, subject to Mortgagor's right to contest the same, as provided by the terms hereof; and Mortgagor will, upon written request, furnish to the Mortgagee duplicate receipts therefor within ten (10) days after Mortgagee's request.

4. **Tax Deposits.** At Mortgagee's election upon the occurrence and during the continuance of an Event of Default, Mortgagor shall deposit with Mortgagee, on the first day of each month until the Indebtedness is fully paid (other than contingent obligations for which no claim has been asserted) or such Event of Default is cured or waived by Lender, a sum equal to one-twelfth (1/12th) of 105% of the most recent ascertainable annual real estate Taxes on the Premises. In such case, Mortgagor shall also deposit with Mortgagee an amount of money which, together with the aggregate of the monthly deposits to be made pursuant to the preceding sentence as of one month prior to the date on which the next installment of annual real estate Taxes for the

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current calendar year become due, shall be sufficient to pay in full such installment of annual real estate Taxes, as reasonably estimated by Mortgagee. Any such deposits are to be held without allowance of interest and are to be used for the payment of real estate Taxes next due and payable when they become due. So long as no Event of Default shall then exist, Mortgagee shall, at its option and to the extent Mortgagor has made sufficient deposits therefor, either (i) pay such real estate Taxes when the same become due and payable (upon submission of appropriate bills therefor from Mortgagor) or (ii) release sufficient funds to Mortgagor for the payment thereof. If an Event of Default exists and the funds so deposited are insufficient to pay any such real estate Taxes for any year (or installments thereof, as applicable) when the same shall become due and payable, Mortgagor shall, within ten (10) Business Days after receipt of written demand therefor, deposit additional funds as may be necessary to pay such real estate Taxes in full. If the funds so deposited exceed the amount required to pay such real estate Taxes for any year, the excess shall be applied toward subsequent real estate Tax deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee. Mortgagee, in making any payment hereby authorized relating to real estate Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.

5. **Mortgagee's Interest In and Use of Deposits**. During the existence of an Event of Default which has not been cured or waived in writing by Lender, Mortgagee may, at its option, apply any monies at the time on deposit pursuant to Paragraph 4 hereof to cure an Event of Default or to pay any of the Indebtedness in such order and manner as Mortgagee may elect. If such deposits are used to cure an Event of Default or pay any of the Indebtedness, Mortgagor shall promptly, upon written demand by Mortgagee, deposit with Mortgagee an amount equal to the amount expended by Mortgagor from the deposits. When the Indebtedness has been fully paid (other than contingent obligations for which no claim has been asserted) or all existing Events of Default have been cured or waived by Lender, any remaining deposits made pursuant to Paragraph 4 hereof or this Paragraph 5 shall be returned to Mortgagor. Such deposits are hereby pledged as additional security for the Indebtedness and shall not be subject to the direction or control of Mortgagor. Mortgagee shall not be liable for any failure to apply to the payment of Taxes any amount so deposited unless Mortgagor, prior to an Event of Default which has not been cured, shall have requested Mortgagee in writing to make application of such funds to the payment of such amounts, accompanied by the bills for such Taxes. Mortgagee shall not be liable for any act or omission taken in good faith or pursuant to the instruction of Mortgagor or any Guarantor.

6. **Insurance**.

a. Mortgagor shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Premises insured against loss or damage by fire and such other hazards as may reasonably be required by Mortgagee under the Loan Agreement, and such other insurance as Mortgagee may from time to time reasonably require pursuant to and in accordance with the Loan Agreement. Unless Mortgagor provides Mortgagee evidence of the insurance coverages required hereunder, Mortgagee may purchase insurance at Mortgagor's expense to cover Mortgagee's interest in the Premises. The insurance may, but need not, protect Mortgagor's interest. The coverages that Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Premises. Mortgagor may

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later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage. If Mortgagee purchases insurance for the Premises, Mortgagor will be responsible for the costs of such insurance, including, without limitation, interest and any other charges which Mortgagee may impose in connection with the placement of the insurance under the Loan Agreement, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Indebtedness. The cost of the insurance may be more than the cost of insurance Mortgagor may be able to obtain on its own.

b. Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained hereunder unless Mortgagee is included thereon as the lender's loss payee and mortgagee or an additional insured as applicable, under a standard mortgage clause reasonably acceptable to Mortgagee and such separate insurance is otherwise reasonably acceptable to Mortgagee.

c. In the event of loss, Mortgagor shall give prompt notice thereof to Mortgagee. If such loss exceeds Two Hundred Fifty Thousand Dollars (\$250,000) ("Threshold"), Mortgagor and Mortgagee shall jointly make proof of loss. If such loss does not exceed the Threshold, Mortgagor shall have the sole and absolute right to make proof of loss. If such loss exceeds the Threshold or if such loss is equal to or less than the Threshold and the conditions set forth in clauses (i), (ii) and (iii) of the immediately succeeding sentence are not satisfied, then Mortgagee, solely and directly shall receive such payment for loss from each insurance company concerned. If and only if (i) such loss is equal to or less than the Threshold, (ii) no Event of Default or Default then exists, and (iii) Mortgagee reasonably determines that the work required to complete the repair or restoration of the Premises necessitated by such loss can be completed no later than six (6) months prior to the Maturity Date, then Mortgagee shall endorse to Mortgagor any such payment and Mortgagor may collect such payment directly. Mortgagee shall have the right, at its option and in its sole discretion, to apply any insurance proceeds received by Mortgagee pursuant to the terms of this paragraph, after the payment of all of Mortgagee's expenses, either, in accordance with the Loan Agreement (i) on account of the Indebtedness, irrespective of whether such principal balance is then due and payable, whereupon Mortgagee may declare the whole of the balance of Indebtedness to be due and payable, or (ii) to the restoration or repair of the property damaged as provided in subparagraph d below; provided, however, that Mortgagee hereby agrees to permit the application of such proceeds to the restoration or repair of the damaged property, subject to the provisions of subparagraph d below, if (i) Mortgagee has received reasonably satisfactory evidence that such restoration or repair shall be completed no later than the date that is six (6) months prior to the Maturity Date, and (ii) no Event of Default or Default then exists. If insurance proceeds are made available to Mortgagor by Mortgagee as hereinafter provided, Mortgagor shall repair, restore or rebuild the damaged or destroyed portion of the Premises so that the condition and value of the Premises are substantially the same as the condition and value of the Premises prior to being damaged or destroyed. In the event of foreclosure of this Mortgage, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser at the foreclosure sale.

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d. If insurance proceeds are made available by Mortgagee to Mortgagor, Mortgagor shall comply with the following conditions:

i. Before commencing to repair, restore or rebuild following damage to, or destruction of, all or a portion of the Premises, whether by fire or other casualty, Mortgagor shall obtain from Mortgagee its approval of all site and building plans and specifications pertaining to such repair, restoration or rebuilding, which approval shall not be unreasonably withheld, conditioned or delayed; provided, that, if the amount of such proceeds is less than the Threshold, Mortgagee's approval shall not be required under this subsection (i) so long as Mortgagor delivers to Mortgagee written notice of all such site and building plans and specifications prior to the commencement of such repair, restoration or rebuilding.

ii. Prior to each payment or application of any insurance proceeds to the repair or restoration of the improvements upon the Premises to the extent permitted in subparagraph c above (which payment or application may be made, at Mortgagee's option, through an escrow, the terms and conditions of which are reasonably satisfactory to Mortgagee and the reasonable cost of which is to be borne by Mortgagor), Mortgagee shall be satisfied as to the following:

(a) no Event of Default or Default then exists;

(b) either such Improvements have been fully restored, or the expenditure of money as may be received from such insurance proceeds will be sufficient to repair, restore or rebuild the Premises, free and clear of all liens, claims and encumbrances, except the lien of this Mortgage and the Permitted Exceptions, or, if such insurance proceeds shall be insufficient to repair, restore and rebuild the Premises, Mortgagor has deposited with Mortgagee such amount of money which, together with the insurance proceeds shall be sufficient to restore, repair and rebuild the Premises; and

(c) prior to each disbursement of any such proceeds, Mortgagee shall be furnished with a statement of Mortgagee's architect (the cost of which shall be borne by Mortgagor), certifying the extent of the repair and restoration completed to the date thereof, and that such repairs, restoration, and rebuilding have been performed to date in substantial conformity with the plans and specifications approved by Mortgagee and with all statutes, regulations or ordinances (including building and zoning ordinances) affecting the Premises; and Mortgagee shall be furnished with reasonably satisfactory evidence of payment for labor or materials furnished to the Premises, and total or partial lien waivers substantiating such payments.

iii. If Mortgagor shall fail to restore, repair or rebuild the Improvements within one (1) year from the time such insurance proceeds are available, subject to Force Majeure and other delays outside of Mortgagor's control, then Mortgagee, at its option, may (a) commence and perform all necessary acts to restore, repair or

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rebuild the said Improvements for or on behalf of Mortgagor, or (b) declare an Event of Default. If insurance proceeds shall exceed the amount necessary to complete the repair, restoration or rebuilding of the Improvements, such excess shall be applied on account of the Indebtedness in accordance with the Loan Agreement irrespective of whether such Indebtedness is then due and payable without payment of any premium or penalty. "Force Majeure" means the failure of Mortgagor to perform any obligation hereunder by reason of any act of God, enemy or hostile government action, terrorist attacks, civil commotion, insurrection, sabotage, strikes or lockouts, shortages of materials or labor, or any other reason primarily due to cause or causes beyond the reasonable control of Mortgagor or any Affiliate of Mortgagor, as the case may be (excluding, however, general market or other economic conditions).

7. **Condemnation.** If all or any part of the Premises are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damages made in consideration thereof, to the extent of the full amount of the remaining unpaid Indebtedness, is hereby assigned to Mortgagee, who is empowered to collect and receive the same and to give proper receipts therefor in the name of Mortgagor and the same shall be paid forthwith to Mortgagee. Such award or monies shall be applied on account of the Indebtedness in accordance with the Loan Agreement, irrespective of whether such Indebtedness is then due and payable and, at any time from and after the taking Mortgagee may declare the whole of the balance of the Indebtedness due and payable. Notwithstanding the provisions of this paragraph to the contrary, if any condemnation or taking of less than the entire Premises occurs and provided that no Event of Default, and no Default, then exists, and if such partial condemnation, in the reasonable discretion of Mortgagee, has no material adverse effect on the operation or value of the Premises, then the award or payment for such taking or consideration for damages resulting therefrom may be collected and received by Mortgagor, and Mortgagee hereby agrees that in such event it shall not declare the Indebtedness to be due and payable, if it is not otherwise then due and payable.

8. **Stamp Tax.** If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the execution and delivery of this Mortgage, the Loan Agreement or any of the other Loan Documents, Mortgagor shall pay such tax in the manner required by any such law. Mortgagor further agrees to reimburse Mortgagee for any sums which Mortgagee may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, Mortgagor shall not be required to pay any income or franchise taxes of Mortgagee.

9. **Assignment of Leases and Rents.** In order to further secure payment of the Indebtedness and the observance, performance and discharge of the Obligations, Mortgagor hereby absolutely and irrevocably collaterally assigns, transfers and hypothecates to Mortgagee, for the benefit of the Secured Parties, all of Mortgagor's right, title and interest in and to the Leases and the Rents, subject only to the Permitted Exceptions. Mortgagor hereby appoints Mortgagee its true and lawful attorney-in-fact, with the right, at Mortgagee's option at any time during the existence of an Event of Default, to demand, receive and enforce payment, to give receipts, releases and satisfactions, and to sue, either in Mortgagor's or Mortgagee's name, for all Rents. Notwithstanding the foregoing assignment of Leases and Rents, pursuant to the terms of the

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Assignment of Rents and Leases delivered by Mortgagor to Mortgagee concurrently herewith (the "Assignment of Rents"), Mortgagee has granted to Mortgagor the License (as defined in the Assignment of Rents) which, among other things, grants Mortgagor the right, so long as no Event of Default has occurred which remains uncured or has not been waived in writing by Lender, to collect and receive all Rents and enter into leases and collect and retain all rents or other consideration in conjunction therewith, subject to the terms and conditions of the Assignment of Rents and the other Loan Documents; provided, that, the existence or exercise of such License (as defined in the Assignment of Rents) shall not operate to subordinate this assignment to any subsequent assignment, in whole or in part, by Mortgagor, and any subsequent assignment by Mortgagor shall be subject to the rights of the Mortgagee hereunder. This Section 9 shall not be deemed or construed to constitute Mortgagee as a mortgagee in possession nor obligate Mortgagee to take any action or to incur expenses or perform or discharge any obligation, duty or liability. Exercise of any rights under this Section 9 and the application of the Rents to the Indebtedness or the Obligations shall not cure or waive any Event of Default. Contemporaneously with the execution of this Mortgage, Mortgagor agrees to execute, in recordable form, the Assignment of Rents.

10. **Effect of Extensions of Time and Other Changes.** If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged under the Loan Agreement is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Premises or having an interest in Mortgagor, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof shall continue in full force, any right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding such extension, variation, release or change.

11. **Effect of Changes in Laws Regarding Taxation.** If any law is enacted after the date hereof requiring (a) the deduction of any lien on the Premises from the value thereof for the purpose of taxation or (b) the imposition upon Mortgagee of the payment of the whole or any part of the Taxes, charges or liens herein required to be paid by Mortgagor, or (c) a change in the method of taxation of mortgages or debts secured by mortgages or Mortgagee's interest in the Premises, or the manner of collection of taxes, so as to affect this Mortgage or the Indebtedness or the holders thereof, then Mortgagor, upon demand by Mortgagee, shall pay such Taxes or charges, or reimburse Mortgagee therefor; provided, however, that Mortgagor shall not be deemed to be required to pay any income or franchise taxes of Mortgagee. Notwithstanding the foregoing, if in the opinion of counsel for Mortgagee it is or may be unlawful to require Mortgagor to make such payment or the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee may declare all of the Indebtedness to be due and payable on the 30th day after the date of such demand.

12. **Mortgagee's Performance of Defaulted Acts and Expenses Incurred by Mortgagee.** If an Event of Default has occurred and is continuing, Mortgagee may, but has no obligation to, make any payment or perform any act herein required of Mortgagor in any form and manner deemed expedient by Mortgagee, and may, but has no obligation to, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Premises or consent to any tax or assessment or cure any default

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of Mortgagor in any lease of the Premises. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by Mortgagee in regard to any tax referred to in Section 8 above or to protect the Premises or the lien hereof, shall be so much additional Indebtedness, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate (as defined in the Loan Agreement) then in effect. In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by Mortgagee in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting or enforcing any of Mortgagee's rights hereunder, (c) recovering any Indebtedness, (d) any litigation or proceedings affecting the Loan Agreement, this Mortgage, any of the other Loan Documents or the Premises, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting this Mortgage, any of the other Loan Documents or the Premises, shall be so much additional Indebtedness, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. The interest accruing under this paragraph shall be immediately due and payable by Mortgagor to Mortgagee, and shall be additional Indebtedness evidenced by the Loan Agreement and secured by this Mortgage. Mortgagee's failure to act shall never be considered as a waiver of any right accruing to Mortgagee on account of any Event of Default. Should any amount paid out or advanced by Mortgagee hereunder, or pursuant to any agreement executed by Mortgagor in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Premises or any part thereof, then Mortgagee shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

13. **Security Agreement.** Mortgagor and Mortgagee agree that this Mortgage shall constitute a Security Agreement within the meaning of the Code with respect to (a) all sums at any time on deposit for the benefit of Mortgagor or held by the Mortgagee (whether deposited by or on behalf of Mortgagor or anyone else) pursuant to any of the provisions of this Mortgage or the other Loan Documents, and (b) with respect to any personal property included in the granting clauses of this Mortgage, which personal property may not be deemed to be affixed to the Premises or may not constitute a "fixture" (within the meaning of Section 9-102(41) of the Code) (which property is hereinafter referred to as "Personal Property"), and all replacements of, substitutions for, additions to, and the proceeds thereof, and the "supporting obligations" (as defined in the Code) (all of said Personal Property and the replacements, substitutions and additions thereto and the proceeds thereof being sometimes hereinafter collectively referred to as "Collateral"), and that a security interest in and to the Collateral is hereby granted to the Mortgagee, for the benefit of the Secured Parties, and the Collateral and all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee, for the benefit of the Secured Parties, all to secure payment of the Indebtedness. All of the provisions contained in this Mortgage pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this paragraph shall not limit the applicability of any other provision of this Mortgage but shall be in addition thereto:

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a. Mortgagor (being the Debtor as that term is used in the Code) is and will be the true and lawful owner of the Collateral and has rights in and the power to transfer the Collateral, subject to no liens, charges or encumbrances other than the lien hereof, Permitted Exceptions, other liens and encumbrances benefiting Mortgagee and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

b. The Collateral is to be used by Mortgagor solely for business purposes.

c. The Collateral will be kept at the Real Estate (or Mortgagor's principal place of business) and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of Mortgagee (being the Secured Party as that term is used in the Code), such consent not to be unreasonably withheld, conditioned or delayed. The Collateral may be affixed to the Real Estate but will not be affixed to any other real estate.

d. The only persons having any interest in the Premises are Mortgagor, Mortgagee, tenants under any Leases, and holders of interests, if any, expressly permitted hereby.

e. No financing statement (other than financing statements showing Mortgagee as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Collateral or any proceeds thereof is on file in any public office except pursuant hereto; and Mortgagor, at its own cost and expense, upon demand, will furnish to Mortgagee such further information and will execute and deliver to Mortgagee such customary financing statements and other documents in form reasonably satisfactory to Mortgagee and will do all such reasonable acts as Mortgagee may reasonably request at any time or from time to time or as may be reasonably necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Indebtedness, subject to no other liens or encumbrances, other than Permitted Liens, liens or encumbrances benefiting Mortgagee and no other party and liens and encumbrances (if any) expressly permitted hereby; and Mortgagor will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by Mortgagee to be desirable. Mortgagor hereby irrevocably authorizes Mortgagee at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto that (i) indicate the Collateral as all assets of Mortgagor (or words of similar effect), regardless of whether any particular asset comprised in the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or as being of an equal or lesser scope or within greater detail, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including whether Mortgagor is an organization, the type of organization and any organization identification number issued to Mortgagor, and in the case of a financing statement filed as a fixture filing or indicating Collateral as as-extracted collateral or timber to be cut, a sufficient description of real property to which the Collateral

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relates. Mortgagor agrees to furnish any such information to Mortgagee promptly upon request.

f. Upon the occurrence and continuance of an Event of Default hereunder, Mortgagee shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as Mortgagor can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of Mortgagor's obligations, as provided in the Code. Mortgagee may render the Collateral unusable without removal and may dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. Mortgagee will give Mortgagor at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of Mortgagor herein after set forth at least ten (10) days before the time of the sale or disposition. Mortgagee may buy at any public sale. Mortgagee may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Premises. If Mortgagee so elects, the Premises and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied against the Indebtedness in such order or manner as Mortgagee shall select in accordance with the Loan Agreement. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

g. The terms and provisions contained in this paragraph, unless the context otherwise requires, shall have the meanings and be construed as provided in the Code.

h. This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code with respect to the Collateral and the goods described herein, which goods are or may become fixtures relating to the Premises. The addresses of Mortgagor (Debtor) and Mortgagee (Secured Party) are herein below set forth. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or counties where the Premises are located.

i. To the extent permitted by applicable law, the security interest created hereby is specifically intended to cover all Leases between Mortgagor or its agents as lessor, and various tenants named therein, as lessee, including all extended terms and all extensions and renewals of the terms thereof, as well as any amendments to or replacement

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of said Leases, together with all of the right, title and interest of Mortgagor, as lessor thereunder.

- j. Mortgagor represents and warrants that:
 - i. Mortgagor is the record owner of the Premises;
 - ii. Mortgagor's chief executive office is located in the State of Illinois;
 - iii. Mortgagor's state of formation is the State of Illinois;
 - iv. Mortgagor's exact legal name is as set forth in the first paragraph of this Mortgage; and
 - v. Mortgagor's organizational identification number is 08226776.
- k. Mortgagor agrees that:
 - i. Where Collateral is in possession of a third party, Mortgagor will join with the Mortgagee in notifying the third party of the Mortgagee's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the benefit of Mortgagee;
 - ii. Mortgagor will reasonably cooperate with the Mortgagee in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and
 - iii. Until the Indebtedness is paid in full, Mortgagor will not change the state where it is located or change its company name without giving the Mortgagee at least 30 days' prior written notice in each instance.

14. **Restrictions on Transfer.**

a. Mortgagor, without the prior written consent of Mortgagee shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any: (i) Change of Control; (ii) Change of Ownership; or (iii) any other conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of the Premises or any part thereof or interest therein, excepting only (x) sales or other dispositions as permitted by, and made in accordance with the terms and conditions of, Section 8.4 of the Loan Agreement or (y) sales or other dispositions of Collateral no longer useful in connection with the operation of the Premises (herein called "Obsolete Collateral"), provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility (provided that, if such Obsolete Collateral is no longer necessary or desirable in connection with the use of the Premises, upon receipt of written consent of the Mortgagee, such Obsolete Collateral shall be agreed to be released) which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral, shall each constitute a "Prohibited Transfer". Whether any such conveyance, sale, assignment, transfer, lien,

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pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this paragraph shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, (iii) to any transfers of the Premises, or part thereof, or interest therein, or any beneficial interests, or shares of stock, or membership interest in a limited liability company or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, (iv) to Leases and other leases permitted by the terms of the Loan Documents, if any, or (v) to Permitted Liens.

b. In determining whether or not to make the Loan, Mortgagee evaluated the background and experience of Mortgagor and its members, directors and officers in owning and operating property such as the Premises, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Premises which is Mortgagee's security for the Loan. Mortgagor and its partners/members/officers are well experienced in borrowing money and owning and operating property such as the Premises, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Mortgagor. Mortgagor further recognizes that any secondary junior financing placed upon the Premises (a) may divert funds which would otherwise be used to pay the Loan; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Premises. In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment and of value of the Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and collect assumption fees; and (iv) keeping the Premises free of subordinate financing liens, Mortgagor agrees that if this paragraph is deemed a restraint on alienation, that it is a reasonable one.

c. Notwithstanding the other provisions of this Section 14, the following transfers shall not be Prohibited Transfers and shall not require any consent of the Mortgagor:

i. Any transfers of direct or indirect ownership interests in Venture or Venture Manager (as such terms are defined in the Loan Agreement) provided, in each case: (i) there is no Change in Control as a result thereof; (ii) there is no Change in Ownership as a result thereof.

15. **Reserved.**

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16. **Events of Default; Acceleration.** Each of the following shall constitute an “Event of Default” for purposes of this Mortgage:

- a. the occurrence of a Prohibited Transfer; or
- b. the occurrence of an “Event of Default” under the Loan Agreement or any of the other Loan Documents.

If an Event of Default occurs and is continuing, Mortgagee may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to Mortgagor, with interest thereon accruing from the date of such Event of Default until paid at the Default Rate.

17. **Foreclosure; Expense of Litigation.**

a. When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Law (Chapter 735, Sections 5/15-1101 et seq., Illinois Compiled Statutes) (as may be amended or renumbered from time to time, the “Act”). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.

b. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys’ fees, appraisers’ fees, outlays for documentary and expert evidence, stenographers’ charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Premises. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor’s obligations hereunder, the protection of said Premises and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Loan Agreement or the Premises, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

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18. **Application of Proceeds of Foreclosure Sale.** The proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion in accordance with the Loan Agreement.

19. **Appointment of Receiver.** Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by Mortgagee, appoint a receiver for the Premises in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagor at the time of application for such receiver and without regard to the value of the Premises or whether the same shall be then occupied as a homestead or not and Mortgagee hereunder or its successors and assigns may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Premises (i) during the pendency of such foreclosure suit, (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, and (iii) during any further times when Mortgagor, but for the intervention of such receiver, would be entitled to collect such rents, issues and profits. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises during said period, including, to the extent permitted by law, the right to lease all or any portion of the Premises for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

20. **Mortgagee's Right of Possession in Case of Default.** At any time after an Event of Default has occurred and has not been waived or cured pursuant to any applicable cure provision, Mortgagor shall, upon demand of Mortgagee, surrender to Mortgagee possession of the Premises. Mortgagee, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Premises, together with all documents, books, records, papers and accounts relating thereto, and may exclude Mortgagor and its employees, agents or servants therefrom, and Mortgagee may then hold, operate, manage and control the Premises, either personally or by its agents. Mortgagee shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Premises, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, Mortgagee shall have full power to:

- a. cancel or terminate any lease or sublease for any cause or on any ground which would entitle Mortgagee to cancel the same;
- b. elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;
- c. extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options

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to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, if any, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

d. make any repairs, renewals, replacements, alterations, additions, betterments and improvements to the Premises as Mortgagee deems are necessary;

e. insure and reinsure the Premises and all risks incidental to Mortgagee's possession, operation and management thereof; and

f. receive all of such avails, rents, issues and profits.

21. **Application of Income Received by Mortgagee.** Mortgagee, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Premises to the payment of or on account of the following, in such order as Mortgagee may determine in accordance with the Loan Agreement:

a. to the payment of the operating expenses of the Premises, including cost of management and leasing thereof (which shall include reasonable market compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include reasonable lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized,

b. to the payment of taxes and special assessments now due or which may hereafter become due on the Premises; and

c. to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

22. **Compliance with Illinois Mortgage Foreclosure Law.**

a. 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 shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

b. If any provision of this Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 19 of this Mortgage 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 Mortgagee or in such receiver under

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the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

c. Without limiting the generality of the foregoing, all expenses incurred by the Mortgagee 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 in Sections 12, 17 or 29 of this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

23. **Rights Cumulative.** Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

24. **Mortgagee's Right of Inspection.** Mortgagee and its representatives shall have the right to inspect the Premises and the books and records with respect thereto at all reasonable times upon not less than forty-eight (48) hours prior written notice to Mortgagor, and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

25. **Release Upon Payment and Discharge of Mortgagor's Obligations.** Mortgagee shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by Mortgagee in connection with the execution of such release, or as otherwise set forth in the Loan Agreement.

26. **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and either shall be mailed by certified mail, postage prepaid, return receipt requested, or sent by nationally recognized overnight courier service, or personally delivered to a representative of the receiving party, or sent by facsimile (provided an identical notice is also sent simultaneously by mail, overnight courier, or personal delivery as otherwise provided in this Section 26). All such communications shall be mailed, sent or delivered, addressed to the party for whom it is intended at its address set forth below:

To Mortgagee:	Wintrust Bank, N.A. 231 S. LaSalle, 2nd Floor Chicago, IL 60604 Attn: Kimberly Bowman Facsimile: (855) 654-2446
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With a copy to: Holland & Knight LLP
 150 N. Riverside Plaza, Suite 2700
 Chicago, Illinois 60606
 Attn: Francis L. Keldermans
 Facsimile: (312) 578-6666

To Mortgagor: WMS Property, LLC
 c/o Baum Revision, LLC
 1030 West Chicago, Suite 300
 Chicago, Illinois 60642
 Attn: Scott Goldman and Tali Lissner

and

Meridian Capital
 3811 Turtle Creek Boulevard, Suite 1050
 Dallas, Texas 75219
 Attn: Curtis Boisfintaine and David Ronck

With copy to: Levenfeld Pearlstein, LLC
 2 North LaSalle Street, Suite 1300
 Chicago, Illinois 60602
 Attn: Thomas Jaros

Each communication shall be effective only (a) if given by facsimile transmission, when transmitted to the applicable facsimile number, if confirmation of receipt is received; (b) if given by mail, four (4) Business Days after deposit in the U.S. mail, with first-class postage pre-paid, addressed to the applicable address; (c) if given by nationally recognized overnight courier, one (1) Business Day after deposit with such overnight courier; or (d) if given by personal delivery, when duly delivered to the notice address with receipt acknowledged. Notwithstanding the foregoing, no notice to Mortgagee shall be effective until actually received by Mortgagee at the address such notice is required to be sent. Any written communication that is not sent in conformity with the foregoing provisions shall nevertheless be effective on the date actually received by the noticed party.

27. **Waiver of Rights.** The Mortgagor hereby covenants and agrees that it will not at any time insist upon or plead, or in any manner claim or take any advantage of, any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force providing for the valuation or appraisal of the Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provisions herein contained, or to decree, judgment or order of any court of competent jurisdiction; or, after such sale or sales, claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof; and without limiting the foregoing:

a. The Mortgagor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its

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own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of the Mortgagor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Illinois Compiled Statutes 735 ILCS 5/15 – 1601 or other applicable law or replacement statutes;

b. The Mortgagor will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the execution of any right, power remedy herein or otherwise granted or delegated to the Mortgagee but will suffer and permit the execution of every such right, power and remedy as though no such law or laws had been made or enacted; and

c. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this paragraph (including the waiver of reinstatement and redemption rights) were made at the express direction of Mortgagor's beneficiaries and the persons having the power of direction over Mortgagor, and are made on behalf of the trust estate of Mortgagor and all beneficiaries of Mortgagor, as well as all other persons mentioned above.

28. **Contests.** Notwithstanding anything to the contrary herein contained, Mortgagor shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Premises or which may be or become a lien thereon, any mechanics', materialmen's or other liens or claims for lien upon the Premises and any alleged violation of Applicable Laws with respect to the Premises (all herein called "Contested Liens"), and no Contested Liens shall constitute an Event of Default hereunder, if, but only if:

a. Mortgagor shall forthwith give notice of any Contested Lien to Mortgagee at the time the same shall be asserted;

b. Mortgagor shall either pay under protest or deposit with Mortgagee the full amount (herein called "Lien Amount") of such Contested Lien, together with such amount as Mortgagee may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment Mortgagor may furnish to Mortgagee a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to Mortgagee;

c. Mortgagor shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings having the effect of staying the foreclosure or forfeiture of the Premises, and shall permit Mortgagee to be represented in any such contest and shall pay all reasonable expenses incurred, in so doing, including reasonable fees and expenses of Mortgagee's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand.

d. Mortgagor shall pay such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to Mortgagor, or (ii) forthwith upon demand by Mortgagee if, in the reasonable judgment of Mortgagee, and notwithstanding any such contest, the Premises shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if Mortgagor

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shall fail so to do, Mortgagee may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Mortgagee to obtain the release and discharge of such liens; and any amount expended by Mortgagee in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that Mortgagee may in such case use and apply monies deposited as provided in subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

29. Expenses Relating to Loan and Mortgage.

a. Mortgageor will pay all expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Loan Agreement, this Mortgage or any of the other Loan Documents, including without limitation, Mortgagee's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Loan Agreement, this Mortgage and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided Mortgageor shall not be required to pay any income or franchise taxes of Mortgagee), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Loan Agreement and this Mortgage. To the extent permitted by applicable law, Mortgageor recognizes that, during the term of this Mortgage, Mortgagee:

i. May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors' arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which Mortgagee shall be a party by reason of the Loan Documents or in which the Loan Documents or the Premises are involved directly or indirectly;

ii. May make preparations following the occurrence of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

iii. May make preparations following the occurrence of an Event of Default hereunder for, and do work in connection with, Mortgagee's taking possession of and managing the Premises, which event may or may not actually occur;

iv. May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;

v. May enter into negotiations with Mortgageor or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Premises, the assumption of liability for any of the Indebtedness or the transfer of the Premises in lieu of foreclosure; or

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vi. May enter into negotiations with Mortgagor or any of its agents, employees or attorneys pertaining to Mortgagee's approval of actions taken or proposed to be taken by Mortgagor which approval is required by the terms of this Mortgage.

b. All expenses, charges, costs and fees described in this paragraph shall be so much additional Indebtedness shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by Mortgagor forthwith upon demand.

30. **Financial Statements.** Mortgagor shall furnish to Mortgagee such financial information regarding Mortgagor, the Premises and any guarantor of the Loan as required under the Loan Agreement.

31. **Statement of Indebtedness.** Mortgagor, within seven (7) Business Days after being so requested by Mortgagee, shall furnish a duly acknowledged written statement setting forth, to Mortgagor's knowledge, the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

32. **Further Instruments.** Upon request of Mortgagee, Mortgagor shall execute, acknowledge and deliver all such commercially reasonable additional instruments and further assurances of title and shall do or cause to be done all such reasonable further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents; provided, however, no such additional documents or instruments shall (a) materially modify the economic terms of the Loan; (b) materially modify Mortgagor's obligations under any of the Loan Documents, or (c) materially modify Mortgagor's rights under any of the Loan Documents, without the consent of the Mortgagor.

33. **Additional Indebtedness Secured.** All persons and entities with any interest in the Premises or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Loan and interest thereon; this Mortgage secures any and all other amounts which may become due under the Loan Agreement or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by Mortgagee to operate, manage or maintain the Premises or to otherwise protect the Premises or the lien of this Mortgage.

34. **Indemnity.** Mortgagor hereby covenants and agrees that no liability shall be asserted or enforced against Mortgagee in the exercise of the rights and powers granted to Mortgagee in this Mortgage, and Mortgagor hereby expressly waives and releases any such liability. Mortgagor shall indemnify and save Mortgagee harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") of whatever kind or nature which may be imposed on, incurred by or asserted against Mortgagee at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which Mortgagee may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage;

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(b) the offer for sale or sale of all or any portion of the Premises; and (c) the ownership, leasing, use, operation or maintenance of the Premises, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Premises to Mortgagee in accordance with the terms of this Mortgage; provided, however, that Mortgagor shall not be obligated to indemnify or hold Mortgagee harmless from and against any Claims directly arising from the gross negligence or willful misconduct of Mortgagee as determined in a final, non-appealable judgment from a court of competent jurisdiction. All costs provided for herein and paid for by Mortgagee shall be so much additional Indebtedness and shall become immediately due and payable upon demand by Mortgagee and with interest thereon from the date incurred by Mortgagee until paid at the Default Rate.

35. **Subordination of Property Manager's Lien.** Any property management agreement for the Premises entered into hereafter with a property manager shall contain a provision whereby the property manager agrees that any and all mechanics' lien rights that the property manager or anyone claiming by, through or under the property manager may have in the Premises shall be subject and subordinate to the lien of this Mortgage and shall provide that Mortgagee may terminate such agreement at any time after the occurrence and continuance of an Event of Default hereunder. In addition, if the property management agreement in existence as of the date hereof does not contain a subordination provision, Mortgagor shall cause the property manager under such agreement to enter into a commercially reasonable subordination of the management agreement with Mortgagee, in recordable form, whereby such property manager subordinates present and future lien rights and those of any party claiming by, through or under such property manager to the lien of this Mortgage.

36. **Compliance with Environmental Laws.** Mortgagor acknowledges that concurrently herewith Mortgagor and Guarantors have executed and delivered to Mortgagee an Environmental Indemnity Agreement ("Indemnity") pursuant to which Mortgagor and Guarantors have fully indemnified Mortgagee for certain environmental matters concerning the Premises, as more particularly described therein. The provisions of the Indemnity are hereby incorporated herein and this Mortgage shall secure the obligations of Mortgagor thereunder. Mortgagor agrees to abide by all of the provisions of the Indemnity.

37. **Reserved.**

38. **Bonding.** Any Lien that is not either a Permitted Lien or a Contested Lien shall be promptly discharged by Mortgagor, or; provided, that if such Lien is a lien claim arising under Sections 1 or 21 of the Lien Act (as defined hereinafter) ("Lien Claim"), Mortgagor may substitute a Bond (as defined hereinafter) in accordance with the Illinois Mechanics Lien Act (770 ILCS 60/38.1, et. seq.) (the "Lien Act") for such Lien Claim.

- a. The Bond ("Bond") shall be in accordance with the Lien Act, and shall:
 - i. specifically state that Mortgagor and Surety (as defined hereinafter) thereunder submit to the jurisdiction of the circuit court of Cook County and that a final non-appealable judgment or decree entered in a proceeding in favor of the lien claimant based on the Lien Claim that is the subject of such Bond shall constitute a judgment against Mortgagor and the Surety for the amount found due to the lien

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claimant, including interest and attorney's fees, limited to the Bond Amount (as defined hereinafter);

ii. continue in effect until the complete satisfaction of the adjudicated amount due under the Lien Claim or the payment of the full amount of the Bond or to a final determination and the expiration of all appeal periods, that the Lien Claim is invalid, void has been released by the lien claimant, or the time to enforce the Lien Claim has expired without the required action by the lien claimant;

iii. be in an amount equal to one hundred seventy-five percent (175%) of the amount of the Lien Claim (the "Bond Amount"); and

iv. have as its surety, a company that (A) has a certificate of authority from the Department of Insurance specifically authorizing the company to execute surety bonds; and (B) is rated by A.M. Best Company, Inc. with (1) a current financial strength rating of not less than "A" with no rating modifier, (2) an outlook that is either "positive" or "stable", and (3) a financial size category of not less than IX; or, in lieu of the foregoing (C) if the circuit court of Cook County has its own list of approved sureties, is specifically authorized to issue surety bonds for the circuit court of Cook County by order or rule (collectively, A through C above is defined as, the "Surety").

b. Mortgagor shall file a petition in accordance the Lien Act with the clerk of the circuit court of Cook County to substitute the Bond for the Lien Claim; provided, that if there is pending action to enforce such Lien Claim, Mortgagor shall file such petition no later than five (5) months after the filing of a complaint or counterclaim by a mechanics lien claimant to enforce its mechanics Lien Claim. Mortgagor's petition (the "Petition") shall be verified and include:

- i. name and address of the Mortgagor and its attorney, if any;
- ii. name and address of the lien claimant;
- iii. if there is a suit to enforce the Lien Claim, the name of the attorney of record for the lien claimant, or if no suit has been filed but a Lien Claim has been recorded by the lien claimant, the name of the preparer of the Lien Claim;
- iv. the Mortgagor's name and address;
- v. the common and legal description of the Real Estate, to include the address, if any;
- vi. an attached copy of the Lien Claim which includes the date of such Lien Claim's recording, where it was recorded, and the number under which it was recorded if there is no pending proceeding to enforce the Lien Claim;
- vii. an attached copy of the proposed Bond;

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viii. a certified copy of the Surety's certificate of authority from the Department of Insurance or other State agency charged with the duty to issue such a certificate; and

ix. an undertaking by Mortgagor to replace the proposed Bond with another eligible Bond in the event that the proposed Bond at any time ceases to be an eligible Bond under the Lien Act.

c. Mortgagor shall either (i) personally serve, or (ii) send via certified mail, return receipt requested, each Person whose name and address is in the Petition and such Person's attorney of record in a pending action on the Lien Claim, a copy of the Petition with the following notice (the "Notice") attached thereto:

"PLEASE TAKE NOTICE that on [*insert date*], the undersigned, [*Mortgagor's name*], filed a petition to substitute a bond for property to a lien claim, a copy of which is attached to this notice.

PLEASE TAKE FURTHER NOTICE that if you fail to file an objection to the substitution of a bond for the lien claim with the clerk of the circuit court of [*County Name*] County under general number [*insert general number*] or case number [*insert case number*], within 30 days after you receive this notice or 33 days after this notice is mailed by certified mail, whichever date is earlier, you will have waived your right to object and an order will be entered substituting the security of the bond for the property securing the lien claim and discharging the property described in the petition as being subject to the lien, such as the real estate and the money or other considerations due or to become due from the owner to the contractor under the original contract giving rise to the lien claim."

d. If all requirements of the Lien Act are deemed met by the court in either subsection (e) or (f) of Section 38.1 of the Lien Act, and the court enters an order that: (i) the Bond is substituted for the property securing the Lien Claim, and (ii) the lien claimant's right to recover on the Bond is substituted for the lien claimant's cause of action that could be asserted under Section 9, 27 or 28 of the Lien Act (a "Bonded Lien"), then such Bonded Lien shall be considered a Permitted Lien under the Loan Documents.

For the avoidance of doubt, (i) each Bond may represent only one (1) Lien Claim; (ii) in the event a Bond is insufficient to cover the applicable Lien Claim, Mortgagor shall remain at all times responsible for any such additional amount; (iii) Mortgagee may, if Mortgagor has not obtained a Bond and submitted a Petition for such Lien Claim, obtain a Bond and submit a Petition on behalf, and in the name, of the Mortgagor; provided, that the cost of the Bond and all attorney fees, court fees, and any other costs or fees are at the expense of Mortgagor and shall be so much additional Indebtedness, and shall become immediately due and payable by Mortgagor to Mortgagee, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. This obligation on the part of Mortgagor under subsections (ii) and (iii) of this last paragraph shall survive the closing of the Loan, the repayment thereof and any cancellation of the Mortgage.

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39. **Miscellaneous.**

a. **Successors and Assigns.** This Mortgage and all provisions hereof shall be binding upon and enforceable against Mortgagor and its permitted assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of Mortgagee and its successors and permitted assigns.

b. **Invalidity of Provisions; Governing Law.** In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, Mortgagor and Mortgagee shall negotiate an equitable adjustment in the provisions of the same in order to effect to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect. This Mortgage is to be construed in accordance with and governed by the laws of the State of Illinois.

c. **Municipal Requirements.** Mortgagor shall not by act or omission permit any building or other improvement on the Premises not subject to the lien of this Mortgage to rely on the Premises or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used. Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this subparagraph shall be void.

d. **Rights of Tenants.** Mortgagee shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Premises having an interest in the Premises prior to that of Mortgagee. The failure to join any such tenant or tenants of the Premises as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by Mortgagor as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Premises, any statute or rule of law at any time existing to the contrary notwithstanding.

e. **Option of Mortgagee to Subordinate.** At the option of Mortgagee, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Premises upon the execution by Mortgagee of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Premises are situated.

f. **Mortgagee in Possession.** Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Premises by Mortgagee pursuant to this Mortgage.

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g. **Relationship of Mortgagee and Mortgagor.** Mortgagee shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of Mortgagor or of any lessee, operator, concessionaire or licensee of Mortgagor in the conduct of their respective businesses, and, without limiting the foregoing, Mortgagee shall not be deemed to be such partner, joint venturer, agent or associate on account of Mortgagee becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of Mortgagor and Mortgagee hereunder is solely that of debtor/creditor.

h. **Time of the Essence.** Time is of the essence of the payment by Mortgagor of all amounts due and owing to Mortgagee under the Loan Agreement and the other Loan Documents and the performance and observance by Mortgagor of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

i. **No Merger.** The parties hereto intend that this Mortgage and the lien hereof shall not merge in fee simple title to the Premises, and if Mortgagee acquires any additional or other interest in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

j. **Maximum Indebtedness.** Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness secured hereby exceed an amount equal to Twenty Eight Million Fifty Thousand and 00/100 Dollars (\$28,050,000.00); provided, however, that in no event shall Mortgagee be obligated to advance funds in excess of the aggregate amount of the Loan.

k. **Consent to Jurisdiction.** TO INDUCE MORTGAGEE TO MAKE THE LOAN, MORTGAGOR IRREVOCABLY AGREES THAT, SUBJECT TO MORTGAGEE'S SOLE AND ABSOLUTE ELECTION, ALL ACTIONS OR PROCEEDINGS IN ANY WAY ARISING OUT OF OR RELATED TO THE LOAN AND THIS MORTGAGE WILL BE LITIGATED IN COURTS HAVING SITUS IN COOK COUNTY, ILLINOIS, OR IN THE COUNTY IN WHICH THE PREMISES ARE LOCATED. MORTGAGOR HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY COURT LOCATED WITHIN COOK COUNTY, ILLINOIS OR IN THE COUNTY WHERE THE PREMISES IS LOCATED, WAIVES PERSONAL SERVICE OF PROCESS UPON MORTGAGOR, AND AGREES THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY REGISTERED MAIL DIRECTED TO MORTGAGOR AT THE ADDRESS STATED HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT.

l. **Waiver of Jury Trial.** MORTGAGOR AND MORTGAGEE (BY ACCEPTANCE HEREOF), HAVING BEEN REPRESENTED BY COUNSEL KNOWINGLY AND VOLUNTARILY WAIVE ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY

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RIGHTS (a) UNDER THIS MORTGAGE OR ANY RELATED AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS MORTGAGE OR (b) ARISING FROM ANY BANKING RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING WILL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. MORTGAGOR AGREES THAT IT WILL NOT ASSERT ANY CLAIM AGAINST MORTGAGEE OR ANY OTHER PERSON INDEMNIFIED UNDER THIS MORTGAGE ON ANY THEORY OF LIABILITY FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES.

m. **Complete Agreement.** This Mortgage, the Loan Agreement and the other Loan Documents constitute the complete agreement between the parties with respect to the subject matter hereof and the Loan Documents may not be modified, altered or amended except by an agreement in writing signed by both Mortgagor and Mortgagee.

n. **Collateral Protection.** Pursuant to the requirements of the Illinois Collateral Protection Act, Mortgagor is hereby notified as follows: Unless Mortgagee provides the Mortgagee with evidence of the insurance coverage required by this Mortgage, or any of the other Loan Documents, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interests in the Premises or any other collateral for the Indebtedness or Obligations. This insurance may, but need not, protect Mortgagor's interests. The coverage the Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Premises or any other collateral for the Indebtedness or Obligations. Mortgagor may later cancel any insurance purchased by Mortgagee but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage, or any of the other Loan Documents. If Mortgagee purchases insurance for the Premises or any other collateral for the indebtedness or obligations, Mortgagor will be responsible for the costs of that insurance, including interest in any other charges that Mortgagee may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the total outstanding Indebtedness. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

o. **Remedies Against Other Collateral.** Mortgagor hereby acknowledges that certain Loan Documents other than this Mortgage may create liens on collateral located in counties or states other than the counties and state in which the Premises are located. Mortgagor further acknowledges that this Mortgage and the other Loan Documents are cross-defaulted and the Loan secured hereby is also secured by the other Loan Documents. Mortgagor agrees that Mortgagee may proceed, at the same or at different times, to foreclose any or all liens against such collateral (or sell such collateral under power of sale, to the extent permitted by applicable law) by any proceedings appropriate in the county and state where such collateral lies, and that no event of enforcement taking place in any county or state pursuant to any of the Loan Documents shall preclude or bar enforcement in any other county or state. Any foreclosure or other appropriate remedy brought in any

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county or state in which collateral is located may be brought and prosecuted as to any part of such collateral without regard to the fact that foreclosure proceedings or other appropriate remedies have or have not been instituted elsewhere on any other part of the collateral for the Loan.

p. **Reserved.**

40. **Further Representations of Mortgagor.**

a. Mortgagor represents to Mortgagee that as of the date of this Mortgage, Mortgagor is and, during the term of this Mortgage shall remain, in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including but not limited to, conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money laundering crime prohibited under the Money Laundering Control Act, 18 U.S.C. 1956, 1957, or the Bank Secrecy Act, 31 U.S.C. 5311 et seq. and any amendments or successors thereto and any applicable regulations promulgated thereunder.

b. Mortgagor represents and warrants to Mortgagee that: (a) neither Mortgagor, nor any of its owners, nor any officer, director or employee, is named as a "Specially Designated National and Blocked Person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (b) Mortgagor is not owned or controlled, directly or indirectly, by the government of any country that is subject to a United States Embargo; and (c) Mortgagor is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a "Specially Designated National and Blocked Person," or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that Mortgagor is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation.

c. Mortgagor acknowledges that it understands and has been advised by its own legal counsel on the requirements of the applicable laws referred to above, including the Money Laundering Control Act, 18 U.S.C. 1956, 1957, the Bank Secrecy Act, 31 U.S.C. 5311 et seq., the applicable regulations promulgated thereunder, and the Foreign Assets Control Regulations, 31 C.F.R. Section 500 et seq.

[Signature page immediately follows]

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IN WITNESS WHEREOF, Mortgagor has executed and delivered this Mortgage the day and year first above written.

MORTGAGOR:

WMS PROPERTY, LLC, an Illinois limited liability company

By: WMS Acquisition Chicago, LLC, a Delaware limited liability company, its Sole Member

By: WMS Acquisition Manager, LLC, a Delaware limited liability company, its Manager

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

By: BR WMS Equity, LLC, a Delaware limited liability company its Sole Member

By: Baum Revision, LLC, an Illinois limited liability company, its Manager

By: 

Name: Scott Goldman

Title: a Manager of Revision Group, LLC, one of the Member Managers of Baum Revision LLC

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STATE OF ILLINOIS)
) ss
 COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Scott Goldman, the Manager of Revision Group, LLC, one of the the Member Managers of Baum Revision, LLC, an Illinois limited liability company, the Manager of BR WMS Equity, LLC, a Delaware limited liability company, the Sole Member of BR WMS Management, LLC, a Delaware limited liability company, the Managing Member of WMS Acquisition Manager, LLC, a Delaware limited liability company, the Manager of WMS Acquisition Chicago, LLC, a Delaware limited liability company, as the sole member of WMS PROPERTY, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 13 day of March, 2020.

Erin Wyse

 NOTARY PUBLIC

(SEAL)



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EXHIBIT A

LEGAL DESCRIPTION

PARCEL 1:

THE SOUTH 250 FEET OF THE NORTH 769.22 FEET OF THE SOUTH 1238.50 FEET OF THE WEST 333 FEET (EXCEPT THE WEST 33 FEET TAKEN FOR NORTH CALIFORNIA AVENUE) OF THE SOUTH EAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN BEING PART OF LOT 14 IN COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS AND PART OF BLOCK 2 AND VACATED ALLEY IN ELECTRIC PARK SUBDIVISION BOTH IN THE SOUTH EAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 25 IN BELMONT AND ELSTON AVENUE ADDITION TO CHICAGO BEING A SUBDIVISION IN THE SOUTH 1/2 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOTS 21, 22, 23 AND 24 IN BELMONT AND ELSTON AVENUE ADDITION TO CHICAGO, BEING A SUBDIVISION IN THE SOUTH 1/2 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED NOVEMBER 6, 1891, AS DOCUMENT NUMBER 1564100 IN BOOK 53 OF PLATS PAGE 14.

PARCEL 4:

THE SOUTH 180.00 FEET OF THE WEST 174.00 FEET OF THE NORTH 519.22 FEET OF THE SOUTH 1238.50 FEET (EXCEPT THE WEST 33.00 FEET THEREOF TAKEN FOR CALIFORNIA AVENUE) OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5:

THE EAST 208.00 FEET OF THE WEST 382.00 FEET OF THE SOUTH 180.00 FEET OF THE NORTH 519.22 FEET OF THE SOUTH 1238.50 FEET OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING PART OF THE LOT 14 IN COUNTY CLERK DIVISION OF SUBDIVIDED LANDS AND PART OF BLOCK 2 AND VACATED ALLEY IN ELECTRIC PARK SUBDIVISION, BOTH IN THE SOUTHEAST 1/4 OF SECTION 24, IN COOK COUNTY, ILLINOIS.

PARCEL 6:

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A TRACT OF LAND, LYING WEST OF A LINE WHICH IS 389 FEET AND 3 INCHES (MEASURED ALONG THE NORTH LINE OF WEST ROSCOE STREET) EAST OF THE EAST LINE OF NORTH CALIFORNIA AVENUE AND WHICH RUNS NORTH FROM AND AT RIGHT ANGLES TO THE SAID NORTH LINE OF WEST ROSCOE STREET WHICH TRACT OF LAND AFORESAID IS CONTAINED IN THE FOLLOWING DESCRIBED LAND:

COMMENCING AT A POINT IN THE NORTH AND SOUTH CENTER LINE OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, 1238.5 FEET NORTH OF THE SOUTH LINE OF SAID SECTION RUNNING THENCE EAST TO A POINT ON OR NEAR THE WEST BANK OF THE NORTH BRANCH OF THE CHG RIVER AND DISTANT FROM THE POINT OF BEGINNING 719.2 FEET; THENCE NORTH 7 DEGREES 30 MINUTES WEST, 303.5 FEET TO A POINT WEST OF SAID NORTH BRANCH OF THE CHICAGO RIVER; THENCE WEST 679.2 FEET TO SAID NORTH AND SOUTH CENTER LINE OF SAID SECTION 24; THENCE SOUTH ALONG SAID NORTH AND SOUTH CENTER LINE 300 FEET TO THE POINT OF BEGINNING, (EXCEPTING FROM THE SAID TRACT THE WEST 33 FEET TAKEN FOR NORTH CALIFORNIA AVENUE AND THE SOUTH 33 FEET TAKEN FOR NORTH STREET), IN COOK COUNTY, ILLINOIS.

PARCEL 7:

THE NORTH 56 FEET OF THE SOUTH 159.5 FEET OF THE SOUTH EAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF THE NORTH BRANCH OF THE CHICAGO RIVER AS ESTABLISHED AND USED BY THE SANITARY DISTRICT OF CHICAGO, AND EAST OF A LINE 308.77 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST 1/4 OF SECTION 24, BEING A PART OF LOT 17 IN THE COUNTY CLERK'S DIVISION OF UNSUBDIVIDED LANDS IN THE SOUTH EAST 1/4 OF SAID SECTION 24, IN COOK COUNTY, ILLINOIS.

PARCEL 8:

THAT PART OF A TRACT OF LAND LYING EAST OF A LINE WHICH IS 389 FEET 3 INCHES (MEASURED ALONG THE NORTH LINE OF WEST ROSCOE STREET) EAST OF THE EAST LINE OF NORTH CALIFORNIA AVENUE AND WHICH RUNS NORTH FROM AND AT RIGHT ANGLES TO SAID NORTH LINE OF WEST ROSCOE STREET BOUNDED AS FOLLOWS:

COMMENCING AT A POINT IN THE NORTH AND SOUTH CENTER LINE OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, 1238.5 FEET NORTH OF THE SOUTH LINE OF SAID SECTION RUNNING THENCE EAST TO A POINT ON OR NEAR THE WEST BANK OF THE NORTH BRANCH OF THE CHICAGO RIVER AND DISTANT FROM THE POINT OF BEGINNING 719.2 FEET THENCE NORTH 7 DEGREES 30 MINUTES WEST 303.5 FEET TO A POINT WEST OF

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SAID NORTH BRANCH OF CHICAGO RIVER THENCE WEST 679.2 FEET TO SAID NORTH AND SOUTH CENTER LINE OF SAID SECTION THENCE SOUTH AND ALONG SAID NORTH AND SOUTH CENTER LINE 300 FEET TO THE POINT OF BEGINNING SUBJECT HOWEVER TO THE ESTABLISHMENT OF A DOCK LINE OF THE NORTH BRANCH OF THE CHICAGO RIVER 91.9 FEET WEST OF THE EASTERLY LINE OF SAID PREMISES AS ABOVE DESCRIBED AND PARALLEL THERETO AND TO THE APPROPRIATION OF THE EAST 91.9 FEET OF SAID PREMISES FOR THE PURPOSE OF STRAIGHTENING SAID NORTH BRANCH OF THE CHICAGO RIVER AND BRINGING SAID NORTH BRANCH UPON THE WESTERLY SIDE THEREOF TO THE SAID PROPOSED DOCK LINE AND MAKING SAID NORTH BRANCH OF SAID RIVER OPPOSITE THE EAST OF SAID DOCK LINE 160 LINE OF THE SAID NORTH BRANCH WHEN SO STRAIGHTENED AND IMPROVED HALF OF WHICH IS NOT NEEDED FOR RAILROAD PURPOSES AND EXCEPTING FROM THE ABOVE DESCRIBED PREMISES THE WEST 33 FEET THEREOF DEDICATED FOR STREET PURPOSES OCTOBER 26, 1914 AND THE SOUTH 33 FEET THEREOF DEDICATED FOR STREET PURPOSES SEPTEMBER 12, 1894 THE ABOVE DESCRIBED PREMISES HAVING WITH ABUTTING STREETS AS NOW OPENED AND LOCATED A FRONTAGE ON WEST ROSCOE STREET OF 592.43 FEET AND A FRONTAGE ON NORTH CALIFORNIA AVENUE 267 FEET, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 9:

LOT 20 IN THE BOATYARD AT BELMONT AND THE RIVER SUBDIVISION, BEING A SUBDIVISION OF PART OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 40 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AS DOCUMENT 08163174, IN COOK COUNTY, ILLINOIS.

Address: 3401 North California Avenue, Chicago, IL 60618

PINS: 13-24-400-006-0000
13-24-400-008-0000
13-24-400-009-0000
13-24-404-005-0000
13-24-404-007-0000
13-24-404-010-0000
13-24-404-013-0000
13-24-404-035-0000
13-24-405-001-0000
13-24-405-002-0000
13-24-405-003-0000
13-24-405-004-0000

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EXHIBIT B

PERMITTED EXCEPTIONS

1. General real estate taxes for the second installment of tax year 2019 and each year thereafter not yet due and payable.
2. Exception Nos. J, K, P, R, V, W, AJ, AK, AM, AN, AO, AP and AQ contained on Schedule B of Chicago Title Insurance Company Title Commitment No. CCH1802104ALD.

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