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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

2020240095

Doc# 2020240095 Fee \$125.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 07/20/2020 03:39 PM PG: 1 OF 38

The property identified as: **PIN:** 17-08-322-010-0000

Address:

Street: 1454 West Randolph Street

Street line 2:

City: Chicago

State: IL

ZIP Code: 60607

Lender: STIFEL BANK & TRUST

Borrower: MP UNION PARK, LLC, a Delaware limited liability company

Loan / Mortgage Amount: \$40,891,000.00

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

FIDELITY NATIONAL TITLE FC# 200030740
9710

Certificate number: 8068BFAD-E7F8-4D66-AB12-D49FA08560DE

Execution date: 7/8/2020

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UNOFFICIAL COPY**MORTGAGE AND SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS
AND FIXTURE FILING****Dated July 8, 2020**

<u>Borrower:</u> MP Union Park, LLC c/o The Marquette Companies 135 Water Street, 4 th Floor Naperville, Illinois 60540	<u>Lender:</u> SoTel Bank & Trust 501 N. Broadway St. Louis Missouri 63102
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Mortgaged Property:

Common Address: 1454 West Randolph Street, Chicago, Illinois

P.I.N. No.: See Exhibit A

<u>Prepared by:</u> Diana Brummer, Esq. Goodwin Procter LLP 620 Eighth Avenue New York, New York 10018 (212) 813-8800	<u>When recorded, please return to:</u> Goodwin Procter LLP 620 Eighth Avenue New York, New York 10018 Attention: Diana Brummer, Esq.
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Property of Cook County Clerk's Office

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

THIS MORTGAGE AND SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (this "**Security Instrument**") is made as of this 8th day of July, 2020, by **MP UNION PARK, LLC**, a Delaware limited liability company, having its principal place of business at c/o The Marquette Companies, 135 Water Street, 4th Floor, Naperville, Illinois 60540, as mortgagor ("**Mortgagor**") for the benefit of **STIFEL BANK & TRUST**, a Missouri trust company, having an address at 501 N. Broadway, St. Louis, Missouri 63102, as lender ("**Lender**").

WITNESSETH:

WHEREAS, this Security Instrument is given to secure a loan (the "**Loan**") in the maximum principal sum of Forty Million Eight Hundred Ninety-One Thousand and No/100 Dollars (\$40,891,000) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof between Mortgagor and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**") and evidenced by one or more Notes in the aggregate principal amount of the Loan (such Notes, together with all extensions, renewals, replacements, restatements or modifications thereof being hereinafter collectively referred to as the "**Note**"). The Note matures on July 8, 2023, subject to extension as set forth in the Loan Agreement;

WHEREAS, Mortgagor desires to secure the payment of the Debt and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as hereinafter defined); and

WHEREAS, this Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Mortgagor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument, and all other documents evidencing or securing the Debt or delivered in connection with the making of the Loan are hereinafter referred to collectively as the "**Loan Documents**").

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Security Instrument:

ARTICLE 1

GRANTS OF SECURITY

Section 1.1 Property Mortgaged. Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey and grant a security interest in, on and to Lender and its successors and assigns all of Mortgagor's rights, title and interest in and to the

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following property, rights, interests and estates now owned, or hereafter acquired by Mortgagor (collectively, the "**Property**"):

(a) **Land**. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) **Additional Land**. All additional lands, estates, development rights (including, without limitation, the Allocated Development Rights, bulk development rights, development credits, floor area, floor area ratio, zoning rooms and other rights and privileges) hereafter acquired by Mortgagor for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Security Instrument;

(c) **Improvements**. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) **Easements**. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) **Equipment**. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**");

(f) **Fixtures**. All Equipment now owned, or the ownership of which is hereafter acquired, by Mortgagor which is so related to the Land and Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire

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extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Mortgagor's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**");

(g) **Personal Property.** All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), other than Fixtures, which are now or hereafter owned by Mortgagor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the state or states where any of the Property is located (the "**Uniform Commercial Code**"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(h) **Leases and Rents.** All leases, subleases and other agreements affecting the use, enjoyment or occupancy of the Land and the Improvements heretofore or hereafter entered into, and all extensions, amendments and modifications thereto, whether before or after the filing by or against Mortgagor of any petition for relief under 11 U.S.C. § 101 et seq., and the regulations adopted and promulgated thereto, as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**") and all right, title and interest of Mortgagor, its successors and assigns therein and thereunder, including, without limitation, any guaranties of the lessees' obligations thereunder, cash or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, payments in connection with any termination, cancellation or surrender of any Lease, revenues, issues, registration and/or membership fees, if any, and profits (including all oil and gas or other mineral royalties and bonuses) from the Land, and/or the Improvements whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases (collectively, the "**Rents**") and the right to receive and apply the Rents to the payment of the Debt;

(i) **Condemnation Awards.** All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

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(j) Insurance Proceeds. All proceeds of and any unearned premiums in respect of the Property under any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(k) Tax Certiorari. All refunds, rebates or credits in connection with a reduction in Taxes and Other Charges charged against the Property as a result of tax certiorari or any applications or proceedings for reduction;

(l) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash and liquidation claims;

(m) Rights. The right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(n) Plans and Agreements. All agreements (including all management and franchise agreements and all of Mortgagor's rights, title and interest in and to the ARO Offsite Agreement), contracts, certificates, instruments, franchises, surveys, shop drawings and other technical descriptions prepared for construction, repair or alteration of the Improvements, permits, licenses, plans, specifications and other documents and all amendments and modifications of any of the foregoing, in each case whether now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the occurrence and during the continuance of an Event of Default (as defined in the Loan Agreement) hereunder, to receive and collect any sums payable to Mortgagor thereunder;

(o) Trademarks. All intellectual property, patents, website domains, tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(p) Accounts. All Accounts, Account Collateral, reserves, escrows and deposit accounts maintained by Mortgagor with respect to the Property, including, without limitation, the Clearing Account, the Cash Management Account, and all proceeds, products, distributions or dividends or substitutions thereof;

(q) Causes of Action. All causes of action and claims (including, without limitation, all causes of action or claims arising in tort, by contract, by fraud or by concealment of material fact) against any Person for damages or injury to the Property or in connection with any transactions financed in whole or in part by the proceeds of the Loan ("Cause of Action");

(r) Interest Rate Cap Agreement. All right, title, interest and claim of Mortgagor in, to, under or pursuant to any Interest Rate Protection Agreement, and all claims of Mortgagor for

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breach by counterparty of any covenant, agreement, representation or warranty contained in the Interest Rate Cap Agreement;

(s) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether cash, liquidation or other claims or otherwise;

(t) Other Rights. Any and all other rights of Mortgagor in and to the items set forth in Subsections (a) through (t) above.

AND without limiting any of the other provisions of this Security Instrument, to the extent permitted by applicable law, Mortgagor expressly grants to Lender, as secured party, a security interest in the portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "Real Property") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Security Instrument be deemed conclusively to be real estate and mortgaged hereby.

Section 1.2 Assignment of Leases and Rents. Mortgagor hereby absolutely and unconditionally assigns to Lender all of Mortgagor's right, title and interest in and to all current and future Leases and Rents; it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Notwithstanding the foregoing, subject to Section 8.1(h) of this Security Instrument, Lender grants to Mortgagor a revocable license (the "License") to perform all of the obligations and exercise all of the rights of the landlord under the Leases, including (without limitation) the right to collect, receive, use and enjoy the Rents (provided, however, the License shall be exercised by Mortgagor in accordance with the terms and conditions of Section 6.1.17 of the Loan Agreement). Mortgagor shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums. Upon request from Mortgagor if required in connection with the operation, management and leasing of the Property, Mortgagee shall confirm in writing whether the License remains in effect or has been revoked pursuant to Section 8.1(h) of this Security Instrument. Upon recordation or a release of this Security Instrument in connection with Mortgagor's repayment of the Debt, the Lender shall be deemed to have re-assigned back to Mortgagor all of the right, title and interest in and to all current and future Leases and Rents.

Section 1.3 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Security Instrument, Mortgagor hereby grants to Lender, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property, the Accounts, the Account Collateral and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be

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subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "**Collateral**"). If an Event of Default shall occur and be continuing, Lender, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Lender after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Lender at a convenient place (at the Land if tangible property) reasonably acceptable to Lender. Mortgagor shall pay to Lender on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default, which amount shall bear interest at the Default Rate. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) business days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its reasonable discretion shall deem proper. The principal place of business of Mortgagor (Debtor) is as set forth on page one hereof and the address of Lender (Secured Party) is as set forth on page one hereof.

Section 1.4 Fixture Filing. Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Security Instrument, and this Security Instrument, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures.

Section 1.5 Pledges of Monies Held. Mortgagor hereby pledges to Lender any and all monies now or hereafter held by Lender or on behalf of Lender in connection with the Loan, including, without limitation, any sums deposited in the Reserve Funds, the Accounts, Net Proceeds and Awards, as additional security for the Obligations until expended or applied as provided in the Loan Agreement or this Security Instrument.

Section 1.6 Future Disbursements. This Security Instrument secures not only existing indebtedness or disbursements made contemporaneously with the execution hereof, if any, but also future principal disbursements (with all interest thereon), to or for the benefit of Borrower, made pursuant to the terms of the Loan Documents (as the same may be amended or supplemented from time to time), the terms of all of which are incorporated herein by reference, whether such disbursements are obligatory, optional, or both, to the same extent as if such future disbursements were made contemporaneously with the execution of this Security Instrument, even though no disbursement may have been made at the time of execution of this Security Instrument and even though no indebtedness may be outstanding at the time any disbursement is

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made, and any liens attaching to the Property after the date hereof shall be under, subject and subordinate to all indebtedness, including, without limitation, future disbursements (regardless of when made), secured hereby. This Security Instrument shall also secure, in addition to the principal amount specified herein, interest, service charges and any disbursements made for the payment of taxes, assessments, maintenance, care, protection or insurance on the Property, with interest on such disbursements.

CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property unto and to the use and benefit of Lender and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall pay to Lender the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Security Instrument, shall perform the Other Obligations (as hereinafter defined) as set forth in this Security Instrument and shall abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents in accordance with the terms thereof, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Mortgagor's obligation to indemnify and hold harmless Lender pursuant to the provisions hereof shall survive any such payment or release to the extent provided herein.

ARTICLE 2

DEBT AND OBLIGATIONS SECURED

Section 2.1 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt.

Section 2.2 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "Other Obligations"):

- (a) the performance of all other obligations of Mortgagor contained herein;
- (b) the performance of each obligation of Mortgagor contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Mortgagor contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement, this Security Instrument or any other Loan Document.

Section 2.3 Debt and Other Obligations. Mortgagor's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "Obligations."

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ARTICLE 3

MORTGAGOR COVENANTS

Mortgagor covenants and agrees that:

Section 3.1 Payment of Debt. Mortgagor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Security Instrument, subject to Section 4.11 of the Loan Agreement and all other applicable notice and cure rights set forth in the Loan Documents.

Section 3.2 Incorporation by Reference. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.3 Insurance. Mortgagor shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Mortgagor and the Property as required pursuant to the Loan Agreement.

Section 3.4 Payment of Taxes. Mortgagor shall promptly pay all Taxes and Other Charges in accordance with the terms of the Loan Agreement, subject to Sections 4.11 and 6.1.2 of the Loan Agreement.

Section 3.5 Maintenance of Property. From and after Final Completion of the Project, Mortgagor shall cause the Property to be maintained in a good and safe condition and repair in accordance with the terms of the Loan Agreement. Except as permitted in accordance with the terms of the Loan Agreement, the Improvements, the Fixtures, the Equipment and the Personal Property shall not be removed, demolished or materially altered without the consent of Lender. Subject to the terms of the Loan Agreement, Mortgagor shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty or become damaged, worn or dilapidated or which may be affected by any Condemnation, and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Mortgagor will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

Section 3.6 Waste. Mortgagor shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for the cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Mortgagor will not, without the prior written consent of Lender, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the

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subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.7 Payment for Labor and Materials. Subject to Mortgagor's rights under Section 6.1.2 of the Loan Agreement, Mortgagor will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("Labor and Material Costs") incurred in connection with the Property and never permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

Section 3.8 Performance of Other Agreements. Subject to any applicable notice, cure and grace periods, Mortgagor shall observe and perform each and every term, covenant and provision to be observed or performed by Mortgagor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.9 Change of Name, Identity or Structure. Except as may be permitted under the Loan Agreement, Mortgagor will not change Mortgagor's name, identity (including its trade name or names) or corporate, partnership or other structure without first obtaining the prior written consent of Lender. Mortgagor hereby authorizes Lender, prior to or contemporaneously with the effective date of any such change, to file any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Mortgagor shall execute a certificate in form satisfactory to Lender listing the trade names under which Mortgagor intends to operate the Property, and representing and warranting that Mortgagor does business under no other trade name with respect to the Property.

Section 3.10 Property Use. The Property shall be used only for multifamily housing complex and garage, with any ancillary commercial and retail uses in accordance with the Legal Requirements and other ancillary uses relating thereto, and for no other uses without the prior written consent of Lender, which consent may be withheld in Lender's sole and absolute discretion. The business being operated on the Property is a commercial enterprise being carried on by Borrower for the purpose of profit. All proceeds of the Debt will be used by the Borrower solely for its own business purposes and in furtherance of Borrower's regular business affairs. The Debt proceeds shall, furthermore, be used for the purposes specified in 815 ILCS 205/4(1)(a) or (c), and shall constitute (i) a "business loan" within the purview of such statute, and (ii) a "loan secured by a mortgage on real estate" within the purview of 815 ILCS 205/4(1)(l). The Debt proceeds shall not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

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ARTICLE 4

REPRESENTATIONS AND WARRANTIES

Section 4.1 Warranty of Title. Mortgagor has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Mortgagor possesses a fee simple absolute estate in the Land and the Improvements and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for the Permitted Encumbrances. The Permitted Encumbrances do not and will not materially adversely affect or interfere with the intended use and operation, of the Property, or the security intended to be provided by this Security Instrument or the ability of Mortgagor to repay the Note or any other amount owing under the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents or to perform its obligations thereunder in accordance with the terms of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with the Assignment of Leases and any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, subject only to Permitted Encumbrances. This Security Instrument, when properly recorded in the appropriate records, creates a valid first priority assignment of, or a valid first priority security interest in, certain rights under the related Leases, subject only to the License granted to Mortgagor with respect to such Leases, including the right to operate the Property. No Person other than Mortgagor owns any interest in any payments due under such Leases that is superior to or of equal priority with Lender's interest therein. Mortgagor shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever (subject to the Permitted Encumbrances).

ARTICLE 5

OBLIGATIONS AND RELIANCES

Section 5.1 Relationship of Mortgagor and Lender. The relationship between Mortgagor, on the one hand, and Lender, on the other, is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Mortgagor, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Mortgagor, on the one hand, and Lender, on the other, to be other than that of debtor and creditor.

Section 5.2 No Reliance on Lender. The general partners, members, principals and (if Mortgagor is a trust) beneficial owners of Mortgagor are experienced in the ownership and operation of properties similar to the Property, and Mortgagor and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Mortgagor is not relying on Lender's expertise, business acumen or advice in connection with the Property.

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Section 5.3 No Lender Obligations. (a) Notwithstanding the provisions of Subsections 1.1(h) and (n) or Section 1.2, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Lender pursuant to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Lender shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Lender.

Section 5.4 Reliance. Mortgagor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Security Instrument and the other Loan Documents, Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 5 of the Loan Agreement and Articles 3 and 4 hereof without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; that such reliance existed on the part of Lender prior to the date hereof, that the warranties and representations are a material inducement to Lender in making the Loan; and that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 5 of the Loan Agreement.

ARTICLE 6

FURTHER ASSURANCES

Section 6.1 Recording of Security Instrument, etc. Mortgagor forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Mortgagor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Loan Agreement, this Security Instrument, the other Loan Documents, and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, the other Loan Documents or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 6.2 Further Acts, etc. Mortgagor will, at the cost of Mortgagor, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and

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assurances as Lender shall, from time to time, require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby deeded, mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Mortgagor, on demand, will execute and deliver and hereby authorizes Lender to file one or more financing statements or execute in the name of Mortgagor to the extent Lender may lawfully do so, one or more chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property or any Collateral. Mortgagor authorizes Lender to use collateral descriptions such as "all personal property" or "all assets", in each case "whether now owned or hereafter acquired" or words of similar import or any other description Lender, in its sole discretion, so chooses in any such financing statements. Mortgagor also ratifies its authorization for Lender to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Security Instrument. Mortgagor grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 6.2. To the extent not prohibited by applicable law, Mortgagor hereby ratifies all acts Lender has lawfully done in the past or shall lawfully do or cause to be done in the future by virtue of such power of attorney. Notwithstanding anything to the contrary, the documents and acts required under this Section 6.2 shall not (a) materially modify the economic terms of the Loan; (b) materially modify Mortgagor's or Guarantor's obligations under the Loan Documents, or (c) materially modify Mortgagor's or Guarantor's rights under the Loan Documents.

Section 6.3 Changes in Tax, Debt, Credit and Documentary Stamp Laws. (a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Mortgagor will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Mortgagor would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury then Lender shall have the option by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable.

(b) Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, this Security

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Instrument, or any of the other Loan Documents or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any.

Section 6.4 Splitting of Mortgage. This Security Instrument and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Lender in accordance with the terms of the Loan Agreement, be split or divided into two or more Notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Mortgagor, upon written request of Lender, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Lender and/or its designee or designees substitute Notes and security instruments in such principal amounts, aggregating not more than the then unpaid principal amount of the Note, and containing terms, provisions and clauses substantially similar to those contained herein and in the Note, and such other documents and instruments as may reasonably be required by Lender.

Section 6.5 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Mortgagor will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

ARTICLE 7

DUE ON SALE/ENCUMBRANCE

Section 7.1 Lender Reliance. Mortgagor acknowledges that Lender has examined and relied on the experience of Mortgagor and its general partners, members, principals and (if Mortgagor is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Mortgagor's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Mortgagor acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Mortgagor default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 7.2 No Transfer. Mortgagor shall not permit or suffer any Transfer to occur, unless: (i) permitted by the Loan Agreement (including all Permitted Transfers) or (ii) if not permitted by the Loan Agreement, Lender shall consent thereto in writing.

ARTICLE 8

RIGHTS AND REMEDIES UPON DEFAULT

Section 8.1 Remedies. Upon the occurrence and during the continuance of any Event of Default, Mortgagor agrees that Lender may take such action, without notice or demand, as it

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deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law, in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein in the Note, the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;
- (g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, any Guarantor, indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;
- (h) the License granted to Mortgagor under Section 1.2 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including, without

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limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants (subject, however, to the rights of tenants under any applicable non-disturbance agreements entered into with Lender), and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Mortgagor to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Mortgagor; (vi) require Mortgagor to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, Other Charges, insurance and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and the Personal Property, or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Mortgagor at its expense to assemble the Fixtures, the Equipment and the Personal Property and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Fixtures, the Equipment and/or the Personal Property sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Lender in accordance with the terms of the Loan Agreement, this Security Instrument or any other Loan Document to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note;

(v) All other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) pursue such other remedies as Lender may have under applicable law; or

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(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Lender shall deem to be appropriate in its discretion.

In the event of a sale, by foreclosure, power of sale or otherwise, of less than all of Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 8.2 Application of Proceeds. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 8.3 Right to Cure Defaults. Upon the occurrence and during the continuance of any Event of Default or if Mortgagor fails to make any payment or to do any act as herein provided, Lender may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make or do the same in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 8.3, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender. All such costs and expenses incurred by Lender together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be immediately due and payable upon demand by Lender therefor.

Section 8.4 Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Lender, in its reasonable discretion, decides should be brought to protect its interest in the Property.

Section 8.5 Recovery of Sums Required to Be Paid. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Mortgagor existing at the time such earlier action was commenced.

Section 8.6 Examination of Books and Records. At reasonable times and upon reasonable prior written notice, Lender, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Mortgagor which reflect upon its

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financial condition, at the Property or at any office regularly maintained by Mortgagor where the books and records are located. Lender and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable prior written notice, Lender, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Mortgagor pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Mortgagor where the books and records are located. This Section 8.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

Section 8.7 Other Rights, etc. (a) The failure of Lender or any Lender to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Security Instrument. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Lender to comply with any request of Mortgagor or any Guarantor or indemnitor with respect to the Loan to take any action to foreclose this Security Instrument or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Lender extending the time of payment or otherwise modifying or supplementing the terms of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Mortgagor, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Lender's possession.

(c) Lender may resort for the payment of the Debt to any other security held by Lender in such order and manner as Lender, in its discretion, may elect. Lender may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Lender thereafter to foreclose this Security Instrument. The rights of Lender under this Security Instrument shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Lender shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Lender shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 8.8 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

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Section 8.9 Violation of Laws. If the Property is not in compliance with Legal Requirements, Lender may impose additional requirements upon Mortgagor in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 8.10 Right of Entry. Upon reasonable prior written notice to Mortgagor, Lender and its agents shall have the right to enter and inspect the Property during business hours provided, that: (i) such right of entry shall be subject to the rights of tenants; and (ii) Lender shall not unreasonably interfere with any tenant's use and/or occupancy of the Property.

ARTICLE 9

INTENTIONALLY OMITTED.

ARTICLE 10

INDEMNIFICATION

Section 10.1 General Indemnification. Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, diminutions in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, punitive damages, foreseeable and unforeseeable consequential damages, of whatever kind or nature (including but not limited to reasonable attorneys' fees and other costs of defense) (collectively, the "**Losses**") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) ownership of this Security Instrument, the Property or any interest therein or receipt of any Rents; (b) any amendment to, or restructuring of, the Debt, and the Note, the Loan Agreement, this Security Instrument, or any other Loan Documents; (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of this Security Instrument or the Loan Agreement or the Note or any of the other Loan Documents, whether or not suit is filed in connection with same, or in connection with Mortgagor, any Guarantor or indemnitor and/or any partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Mortgagor to perform or be in compliance with any of the terms of this Security Instrument; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) any failure of the Property to be in compliance with any Legal Requirements; (i) the enforcement by any Indemnified Party of the provisions of this Article 10; (j) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease; (k) apply for the right to become a Lender in possession with all of the

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powers that a receiver would have; (l) the payment of any commission, charge or brokerage fee to anyone claiming through Mortgagor which may be payable in connection with the funding of the Loan; or (m) any misrepresentation made by Mortgagor in this Security Instrument or any other Loan Document; provided, however, that Mortgagor shall not be liable for any of the foregoing to the extent arising from the gross negligence, illegal acts, fraud or willful misconduct of any Indemnified Party. Any amounts payable to Lender by reason of the application of this Section 10.1 shall become immediately due and payable and shall bear interest at the Default Rate from the date loss or damage is sustained by Lender until paid. For purposes of this Article 10, the term "**Indemnified Parties**" means Lender, each participant in the Loan, and any Person who is or will have been involved in the origination of the Loan, any Person who is or will have been involved in the servicing of the Loan secured hereby, any Person in whose name the encumbrance created by this Security Instrument is or will have been recorded, persons and entities who may hold or acquire or will have held a full or partial interest in the Loan secured hereby (including, but not limited to, investors or prospective investors in the Securities, as well as custodians, trustees and other fiduciaries who hold or have held a full or partial interest in the Loan secured hereby for the benefit of third parties) as well as the respective directors, officers, shareholders, partners, employees, agents, servants, representatives, contractors, subcontractors, affiliates, subsidiaries, participants, successors and assigns of any and all of the foregoing (including but not limited to any other Person who holds or acquires or will have held a participation or other full or partial interest in the Loan, whether during the term of the Loan or as a part of or following a foreclosure of the Loan and including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of Lender's or any Indemnified Party's assets and business). When all or any part of the Obligations shall become due, whether by acceleration or otherwise, Lender shall have the right to foreclose the lien hereof for such Obligations or part thereof and/or exercise any right, power or remedy provided in this Security Instrument 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 from time to time, the "Act"). In the event of a foreclosure sale, Lender 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 Lender may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Obligations in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Lender 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 Lender 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 Property. 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 the Obligations hereunder, the protection of the Property and the maintenance of the lien of this Security Instrument, including the reasonable fees of any attorney employed by Lender in any litigation or proceeding affecting this Security Instrument, the Note, or the Property, 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,

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with interest thereon until paid at the Default Rate (as defined in the Note) and shall be secured by this Security Instrument.

Section 10.2 Mortgage and/or Intangible Tax. Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Security Instrument, the Note or any of the other Loan Documents.

Section 10.3 ERISA Indemnification. Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, reasonable attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion) that Lender and/or any Lender may incur, directly or indirectly, as a result of a default under Sections 5.1.8 and 6.2.8 of the Loan Agreement.

Section 10.4 Intentionally Omitted

Section 10.5 Duty to Defend Attorneys' Fees and Other Fees and Expenses. Upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Mortgagor and any Indemnified Party and Mortgagor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or additional to those available to Mortgagor, such Indemnified Party shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party, provided that no compromise or settlement shall be entered without Mortgagor's consent, which consent shall not be unreasonably withheld. Within ten (10) days of written demand by the Indemnified Parties or if an Event of Default shall have occurred and be continuing, on demand, Mortgagor shall pay or, in the sole and absolute discretion of the Indemnified Parties, reimburse, the Indemnified Parties for the payment of reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals actually incurred in connection therewith. All expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Security Instrument, shall be added to the indebtedness secured by this Security Instrument or by the judgment of foreclosure.

ARTICLE 11

WAIVERS

Section 11.1 Waiver of Counterclaim. To the extent permitted by applicable law, Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or

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compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 11.2 Marshalling and Other Matters. To the extent permitted by applicable law, Mortgagor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by applicable law.

Section 11.3 Waiver of Notice. To the extent permitted by applicable law, Mortgagor shall not be entitled to any notices of any nature whatsoever from Lender except with respect to matters for which this Security Instrument and/or any of the other Loan Documents specifically and expressly provides for the giving of notice by Lender to Mortgagor and except with respect to matters for which Lender is required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Mortgagor.

Section 11.4 Waiver of Statute of Limitations. To the extent permitted by applicable law, Mortgagor hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 11.5 Survival. The indemnifications made pursuant to Article 9 herein shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by: any satisfaction or other termination of this Security Instrument, any assignment or other transfer of all or any portion of this Security Instrument or Lender's interest in the Property (but, in such case, shall benefit both Indemnified Parties and any assignee or transferee), any exercise of Lender's rights and remedies pursuant hereto including but not limited to foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Mortgagor or by Lender following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), any amendment to this Security Instrument, the Loan Agreement, the Note or the other Loan Documents, and any act or omission that might otherwise be construed as a release or discharge of Mortgagor from the obligations pursuant hereto.

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ARTICLE 12

EXCULPATION

Section 12.1 Exculpation. The provisions of Section 10.4 of the Loan Agreement are hereby incorporated by reference into this Security Instrument to the same extent and with the same force as if fully set forth herein.

ARTICLE 13

NOTICES

Section 13.1 Notices. All notices or other written communications hereunder shall be delivered in accordance with Section 11.6 of the Loan Agreement.

ARTICLE 14

APPLICABLE LAW

Section 14.1 GOVERNING LAW. WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS SECURITY INSTRUMENT, THIS SECURITY INSTRUMENT SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS SECTION AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES SHALL GOVERN ALL MATTERS RELATING TO THIS SECURITY INSTRUMENT AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

Section 14.2 Usury Laws. Notwithstanding anything to the contrary, (a) all agreements and communications between Mortgagor and Lender are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Lender shall never exceed the maximum lawful rate or amount, (b) in calculating whether any interest exceeds the lawful maximum, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Mortgagor to Lender, and (c) if through any contingency or event, Lender receives or is deemed to receive interest in excess of the lawful maximum, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Mortgagor to Lender, or if there is no such indebtedness, shall immediately be returned to Mortgagor.

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Section 14.3 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Security Instrument or any application thereof shall be invalid or unenforceable, the remainder of this Security Instrument and any other application of the term shall not be affected thereby.

ARTICLE 15

DEFINITIONS

Section 15.1 Definitions. All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "**Mortgagor**" shall mean "each Mortgagor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "**Lender**" shall mean each Lender and each and any subsequent holder(s) of the Note or any part thereof," the word "**Note**" shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all reasonable attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

ARTICLE 16

MISCELLANEOUS PROVISIONS

Section 16.1 No Oral Change. This Security Instrument, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 16.2 Successors and Assigns. This Security Instrument shall be binding upon and inure to the benefit of Mortgagor and Lender and their respective successors and assigns forever.

Section 16.3 Inapplicable Provisions. If any term, covenant or condition of the Loan Agreement, the Note or this Security Instrument is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Security Instrument shall be construed without such provision.

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Section 16.4 Headings, etc. The headings and captions of various Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 16.5 Number and Gender/Joint and Several. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. If Mortgagor consists of more than one Person, all representations, warranties, covenants, obligations and liabilities of each such Person hereunder shall be joint and several. A default hereunder by any such Person shall be deemed a default by all such Persons and Mortgagor. The representations, warranties and covenants contained herein shall be read to apply to the individual Persons comprising Mortgagor when the context so requires, but a breach of any such representation, warranty or covenant or a breach of any obligation under this Security Instrument shall be deemed a breach by all such Persons and Mortgagor, entitling Lender and Lenders to exercise all of their rights and remedies under this Security Instrument and under applicable law.

Section 16.6 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Mortgagor's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

Section 16.7 Entire Agreement. The Note, the Loan Agreement, this Security Instrument and the other Loan Documents constitute the entire understanding and agreement between Mortgagor and Lender with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Mortgagor and Lender with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Security Instrument and the other Loan Documents.

Section 16.8 Limitation on Lender's Responsibility. No provision of this Security Instrument shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Lender, nor shall it operate to make Lender responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Lender a "lender in possession."

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Section 16.9 Loan Agreement. This Security Instrument is made pursuant to a Loan Agreement between the Mortgagor and Lender bearing even date herewith, intended to be filed in the Office of the Clerk of the County in which the Property is located on or before the date of the recording of this Security Instrument and this Security Instrument is subject to all of the provisions of the Loan Agreement including, without limitation, the provisions thereof entitling Lender to declare the entire indebtedness secured hereby to be immediately due and payable under certain specified circumstances, all of which provisions are incorporated herein with the same force and with like effect as if they were fully set forth herein at length and made a part hereof.

Section 16.10 Sole Discretion of Lender. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender, except as may be otherwise expressly and specifically provided herein or in any of the other Loan Documents.

ARTICLE 17

STATE-SPECIFIC PROVISIONS

Section 17.1 Waiver of Right of Redemption and Other Rights. Without limitation to anything contained herein, to the full extent permitted by law, Mortgagor agrees that it will not at any time or in any manner whatsoever take any advantage of any appraisement, valuation, stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisement of the Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or claim or exercise any rights under any statute now or hereafter in force to redeem the property or any part thereof, or relating to the marshalling thereof, on foreclosure sale or other enforcement hereof. **TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS IT MAY HAVE TO REQUIRE THAT THE PROPERTY BE SOLD AS SEPARATE TRACTS OR UNITS IN THE EVENT OF FORECLOSURE. TO THE FULL EXTENT PERMITTED BY LAW, MORTGAGOR HEREBY EXPRESSLY WAIVES ANY AND ALL RIGHTS TO REDEMPTION AND REINSTATEMENT UNDER SECTION 15-1601 OF THE ACT OR OTHER APPLICABLE LAW OR REPLACEMENT STATUTES, ON ITS OWN BEHALF, ON BEHALF OF ALL PERSONS CLAIMING OR HAVING AN INTEREST (DIRECT OR INDIRECT) BY, THROUGH OR UNDER MORTGAGOR AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE HEREOF, IT BEING THE INTENT HEREOF THAT ANY AND ALL SUCH RIGHTS OF REDEMPTION OF MORTGAGOR AND SUCH OTHER PERSONS, ARE AND SHALL BE DEEMED TO BE HEREBY WAIVED TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW.** To the full extent permitted by law, Mortgagor agrees that it will not, by invoking or

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utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Mortgagor hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid on an action at law upon the Note. If the Mortgagor is a trustee, Mortgagor represents that the provisions of this Section (including the waiver of 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 named above. Mortgagor acknowledges that the Property does not constitute agricultural real estate as defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

Section 17.2 Future Advances. Without limitation to anything contained herein, at all times, regardless of whether any loan proceeds have been disbursed, this Security Instrument secures as part of the Debt the payment of all loan commissions, service charges, liquidated damages, attorney's fees, expenses and advances due to or incurred by Lender in connection with the Debt, all in accordance with the Note, this Security Instrument, and the other Loan Documents, provided, however, that in no event shall be total amount of the Debt, including loan proceeds disbursed plus any additional charges, exceed \$81,872,000.00 plus interest thereon, and other costs, amounts and disbursements as provided herein and in the other Loan Documents. The lien of this Security Instrument shall be valid as to all indebtedness, including future advances, from the time of its filing of record in the office of the recorder of deeds of the county where the Real Property is located.

Section 17.3 Article 9. (a) Mortgagor hereby irrevocably authorizes Lender 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, as amended, 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, as amended, 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 relates. Mortgagor agrees to furnish any such information to Lender promptly upon request. Mortgagor further ratifies and affirms its authorization for any financing statements and/or amendments thereto, executed and filed by Lender in any jurisdiction prior to the date of this Security Instrument.

(b) Mortgagor represents and warrants that:

- (i) Mortgagor is the record owner of the Property;

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- (ii) Mortgagor's state of organization is in the State of Delaware;
- (iii) Mortgagor's exact legal name is MP Union Park, LLC; and
- (iv) Mortgagor's organizational identification number is: 7339473.

(c) (i) Where collateral is in possession of a third party, Mortgagor will join with Lender in notifying the third party of Lender's interest and obtaining an acknowledgment from the third party that it is holding the collateral for the benefit of Lender; (ii) Mortgagor will cooperate with Lender 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 Debt is paid in full, Mortgagor will not change the state where it is located or change its name without giving the Lender at least 30 days' prior written notice in each instance.

Section 17.4 Conflicting Provisions. The provisions of this Article are intended to supplement, and not limit, the other provisions of this Security Instrument; provided, however, that in the event the provisions of this Article contradict any other provision of this Security Instrument, the provisions of this Article shall govern.

Section 17.5 Illinois Mortgage Foreclosure Law.

(a) In the event that any provision in this Security Instrument shall be inconsistent with any provisions of the Act, the provision of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

(b) Lender shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, to the maximum extent permitted by law, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(c) All advances, disbursements and expenditures made or incurred by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Security Instrument, the other Loan Documents or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including, without limitation, those provisions of the Act herein below referred to:

- (i) all advances by Lender in accordance with the terms of this Security Instrument or the other Loan Documents to: (A) preserve, maintain, repair, restore or rebuild the improvements upon the Property; (B) preserve the lien of this Security Instrument or the priority thereof; or (C) enforce this Security Instrument, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

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(ii) payments by Lender of: (A) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance (provided that nothing in this section shall be construed as authorizing the existence of any senior mortgage or other prior lien or encumbrance); (B) real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (C) other obligations authorized by this Security Instrument; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(iii) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens (provided that nothing in this section shall be construed as authorizing the existence of any senior mortgage or other prior lien);

(iv) attorneys' fees and other costs incurred: (A) in connection with the foreclosure of this Security Instrument as referred to in Sections 15-1504(d) and 15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against Lender for the enforcement of this Security Instrument or arising from the interest of Lender hereunder; or (C) in preparation for or in connection with the commencement, prosecution or defense of any other action related to this Security Instrument or the Property;

(v) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection 15-1508(b)(1) of the Act;

(vi) expenses deductible from proceeds of sales referred to in Subsections 15-1512(a) and (b) of the Act;

(vii) expenses incurred and expenditures made by Lender for any one or more of the following: (A) premiums for casualty and liability insurance paid by Lender whether or not Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Property imposed by Subsection 15-1704(c)(1) of the Act; (B) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (C) payments deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; and (D) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property.

All Protective Advances shall be so much additional indebtedness secured by this Security Instrument, and shall become immediately due and payable without notice and with

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interest thereon from the date of the advance until paid at the rate of interest payable after default under the terms of the Note.

This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to Subsection (b)(5) of Section 15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

- (1) any determination of the amount of indebtedness secured by this Security Instrument at any time;
- (2) the indebtedness found due and owing to Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (3) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act;
- (4) application of income in the hands of any receiver or Lender in possession; and
- (5) computation of any deficiency judgment pursuant to Subsections 15-1508(b)(2), 15-1508(e) and Section 15-1511 of the Act.

(d) In addition to any provision of this Security Instrument authorizing Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in the possession of the Property or at its request to have a receiver appointed and such receiver, or Lender, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all rights, powers, immunities, and duties and provisions for in Sections 15-1701 and 15-1703 of the Act, or, in accordance with the appointment of a receiver, Section 15-1704 of the Act.

Section 17.6 Illinois Collateral Protection Act. Pursuant to the terms of the Illinois Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified that unless Mortgagor provides Lender with evidence of the insurance coverage required by the Loan Documents, Lender may, but shall not be required to, purchase insurance at Mortgagor's expense to protect Lender's interests in the Property, which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Lender may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the Property. Mortgagor may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that Mortgagor has obtained the insurance as required under the Loan Documents. If Lender purchases insurance for the Property, Mortgagor will be responsible for the costs of such

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insurance, including interest and any other charges imposed 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 Debt. The costs of such insurance may be greater than the cost of insurance Mortgagor may be able to obtain for itself.

Section 17.7 Construction Loan. The Note evidences a debt created by one or more disbursements made (or to be made) by Lender to Mortgagor to finance the cost of the construction of certain Improvements upon the Land in accordance with the provisions of the Loan Agreement, and this Security Instrument is a construction mortgage as such term is defined in Section 9-334(h) of the Uniform Commercial Code of the State of Illinois.

Section 17.8 Adjustable Mortgage Loan Provision. The Note and the Loan Agreement which this Security Instrument secures provide for an interest rate that may be adjusted from time to time in accordance with the terms and provisions set forth in the Note and the Loan Agreement.

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

MORTGAGOR:


MP UNION PARK, LLC

a Delaware limited liability company,

By: MP Union Park Mezz, LLC,
a Delaware limited liability company,
its sole member

By: Union Park Apartments Venture, LLC,
a Delaware limited liability company,
its sole member

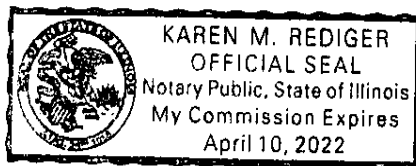
By: MAA Union Park Manager, LLC,
an Illinois limited liability company,
its managing member

By: 
Name: Darren Sloniger
Title: Manager

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

KAREN M. REDIGER, a Notary Public in and for the County and State aforesaid, do hereby certify that Darren Sloniger, as the Manager of MAA Union Park Manager, LLC, an Illinois limited liability company, the managing member of Union Park Apartments Venture, LLC, a Delaware limited liability company, the sole member of MP Union Park Mezz, LLC, a Delaware limited liability company, the sole member of **MP UNION PARK, LLC**, a Delaware limited liability company, is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Manager, 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 limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 30th day of JUNE, 2020.



Karen M. Rediger
Notary Public
My commission expires: 4/10/2022

UNOFFICIAL COPY

EXHIBIT A

LEGAL DESCRIPTION

For APN/Parcel ID(s): 17-08-322-010, 17-08-322-011, 17-08-322-012, 17-08-322-013, 17-08-322-018 and 17-08-322-019

Parcel 1:

Lots 12 to 15, both inclusive, in Block 1 in Union Park Addition to Chicago (Ante Fire plat recorded May 20, 1854 as Document No. 51099), being a subdivision of Lots 5 and 6 in the Circuit Court Partition (Ante Fire plat - recording info not available) of the Southwest 1/4 of Section 8, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 2:

Lots A, B and C in the Superior Court Commissioners' Partition of Amos J. Snell Estate (plat recorded February 12, 1889 as Document No. 116962) in Lots 9, 10 and 11 in Block 1 in Union Park Addition to Chicago (Ante Fire plat recorded May 20, 1854 as Document No. 51099), being a subdivision of Lots 5 and 6 in the Circuit Court Partition (Ante Fire plat - recording info not available) of the Southwest 1/4 of Section 8, Township 39 North, Range 14 East of the Third Principal Meridian, in Cook County, Illinois.

Parcel 3:

Exclusive, permanent easements for the benefit of Parcels 1 and 2 (taken as a tract) as granted in Section 3 of the Encroachment and Development Easement Agreement made by and between MP Union Park, LLC, (Apartment Parcel Owner) and 1435 Randolph, LLC, (Office Parcel Owner) recorded _____, 2020, as Document No. 2020240089, over the Easement Area as described and depicted therein.

Parcel 4:

Non-exclusive, temporary easements for the benefit of Parcels 1 and 2 (taken as a tract) as granted in Section 3 of the Construction Easement Agreement made by and between MP Union Park, LLC, (Apartment Parcel Owner) and 1436 Randolph, LLC, (Office Parcel Owner) recorded _____, 2020, as Document No. 2020240090 over those portions of the Office Parcel described and depicted therein.