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## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Report Mortgage Fraud  
844-768-1713



\*2020216117\*

Doc# 2020216117 Fee \$114.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 07/20/2020 03:57 PM PG: 1 OF 30

The property identified as: **PIN:** 17-05-218-005-0000

**Address:**

**Street:** 855 West Blackhawk Street

**Street line 2:**

**City:** Chicago

**State:** IL

**ZIP Code:** 60642

**Lender:** CIBC Bank USA

**Borrower:** THE SHOPS AT BIG DEAHL, LLC

**Loan / Mortgage Amount:** \$14,000,000.00

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

**Certificate number:** 7CBB1A27-6CA8-4A29-A0C5-8036409863E4

**Execution date:** 3/25/2020

Handwritten notes and signatures on the right margin, including the number "30" and various initials.

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PREPARED BY AND  
 RECORDING REQUESTED BY )  
 AND WHEN RECORDED MAIL TO: )  
 )  
 CIBC Bank USA )  
 120 S. LaSalle Street )  
 Chicago, Illinois 60603 )  
 Attn: Niquanda Reid )  
 RCS 997724-1 3 of 4 )

Space Above for Recorder's Use

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

from

THE SHOPS AT BIG DEAHL, LLC,  
 an Illinois limited liability company,  
 as Mortgagor

to

CIBC BANK USA,  
 an Illinois state chartered bank in its capacity  
 as collateral and administrative agent and  
 as Mortgagee

March 25, 2020

THIS MORTGAGE IS ALSO TO BE FILED FOR RECORD IN THE REAL ESTATE RECORDS AS A FIXTURE FILING IN ACCORDANCE WITH THE UNIFORM COMMERCIAL CODE OF THE STATE. THIS MORTGAGE COVERS GOODS WHICH ARE OR ARE TO BECOME FIXTURES.

THE NAMES OF THE DEBTOR AND THE SECURED PARTY, THE MAILING ADDRESS OF THE SECURED PARTY FROM WHICH INFORMATION CONCERNING THE SECURITY INTEREST MAY BE OBTAINED, THE MAILING ADDRESS OF THE DEBTOR AND A STATEMENT INDICATING THE TYPES, OR DESCRIBING THE ITEMS, OF COLLATERAL, ARE AS DESCRIBED IN SECTION 4 HEREOF.

*Second Mortgage  
 CIBC Bank USA/BIG DEAHL PG LLC  
 (Construction Loan)*

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THIS SECOND MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT, FINANCING STATEMENT AND FIXTURE FILING (this "Mortgage"), is made as of March 25 2020, by THE SHOPS AT BIG DEAHL, LLC, an Illinois limited liability company, having an address of 211 N. Clinton Street, STE 3S, Chicago, IL 60661, ("Mortgagor") to CIBC BANK USA, an Illinois state chartered bank ("CIBC Bank USA") in its capacity as collateral and administrative agent (together with its successors and assigns, "Mortgagee") for Lenders (as defined below).

## BACKGROUND:

A. Pursuant to that certain Construction Loan and Security Agreement, as the same may be amended, restated, modified or supplemented and in effect from time to time (the "Loan Agreement"), dated of even date herewith, by and among Big Deahl PG LLC, an Illinois limited liability company ("Borrower"), Mortgagee, CIBC Bank USA as a lender and the other financial institutions who are or hereafter become parties to the Loan Agreement as lenders (together with CIBC Bank USA, collectively or individually, as the context may require, referred to herein as "Lenders"), Lenders have agreed to make and Borrower has agreed to accept a loan (the "Loan") in the original principal amount of up to \$14,000,000.00 (the "Loan Amount"). Any capitalized term used, but not defined herein shall have the meaning ascribed to such term in the Loan Agreement.

B. The Loan is evidenced by that certain Promissory Note, dated of even date, in the original principal amount of the Loan made by Borrower and payable to Mortgagee, as the same may be amended, restated, modified or supplemented and in effect from time to time (the "Note").

C. Mortgagor holds fee simple title to the real estate legally described on Exhibit A attached to and made a part of this Mortgage (the "Land").

D. The Loan is being made in order to provide Borrower with construction financing as more particularly described in the Loan Agreement.

E. As a condition precedent to the making of the Loan to Borrower, Mortgagee has required, among other things, that Mortgagor enter into this Mortgage and grant to Mortgagee a second priority lien and security interest in and to the Land and other Mortgaged Property now or hereafter owned by Mortgagor, subject only to the Permitted Exceptions to secure all of the following (all of which may be referred to collectively as the "Obligations"): (i) payment of the principal amount of the Loan evidenced by the Note and any amendments, restatements, modifications and supplements thereof, together with the interest thereon at the rate specified in the Note, and all fees, charges, and prepayment fees, if any, as provided in the Note or any other Loan Document, (ii) payment of all other monies or sums provided to be paid by Borrower pursuant to the terms, provisions and conditions of the Loan Documents, including, without limitation, the Loan Agreement, and (iii) performance of each and every obligation, agreement, promise, covenant, warranty, and representation now or hereafter due and owing, made or undertaken by Borrower as set forth in the Loan Agreement, the Note, the other Loan

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Documents, and all other documents or instruments given or made by Borrower to evidence or to secure the Loan, and the payment and performance of Mortgagor's obligations under this Mortgage, and in any renewal, modification, restatement or extension of any of the foregoing. Notwithstanding the foregoing, (i) the term "Obligations" shall not include any Excluded Swap Obligations (as defined by the Loan Agreement) and no Excluded Swap Obligations shall be secured by the Mortgage; and (ii) the term "Obligations" shall not include the Mortgage Loan.

F. Mortgagor is an Affiliate of Borrower and Mortgagor will derive substantial benefit from the execution and delivery of this Mortgage to Mortgagee.

## Statement of Agreement:

NOW, THEREFORE, Mortgagor agrees with Mortgagee as follows:

1. Definitions: As used in this Mortgage, the following terms shall have the meanings indicated below:

"Agreements" shall mean all contracts, agreements, warranties, representations, service agreements, maintenance contracts and agreements relating to the use, occupancy, operation, management, leasing, repair and service of the Real Estate or any part thereof, whether presently existing or entered into after the date hereof.

"Bankruptcy Code" shall mean Title 11 of the United States Code entitled "Bankruptcy" as now or hereafter in effect or any successor code thereto.

"Development Documents" shall mean a collective and singular reference to any tentative map, final map, declaration of easements and restrictive covenants, conditions and restrictions; and all general and special rights of the Mortgagor or declarant or developer under any of the foregoing; together with any assignments, amendments and attachments to any of the foregoing.

"Fixtures" shall mean all furniture, furnishings, fixtures, appliances, machinery or equipment which are now or at anytime hereafter may be attached to or situated upon or affixed to the Real Estate, including, but not limited to, all signs, artwork, office furnishings and equipment, all partitions, screens, awnings, shades, blinds, floor coverings, hall and lobby equipment, heating, lighting, plumbing, ventilating, refrigerating, incinerating, elevator, escalator, air conditioning and communication plants or systems with appurtenant fixtures, vacuum cleaning systems, call systems, security systems, sprinkler systems and other fire prevention and extinguishing apparatus and materials; all equipment, manual, mechanical or motorized, for the construction, maintenance, repair and cleaning of, any parking areas, walks, underground ways, truck ways, driveways, common areas, roadways, highways and streets; and all other items of personal property now or hereafter owned by Mortgagor located in or on the Real Estate and used or useful in the present or future occupancy, operation, maintenance and leasing thereof (but excluding any of the foregoing that is not owned by Mortgagor).

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“Improvements” shall mean all buildings, structures and improvements to be constructed on the Land in accordance with the Plans, together with all related infrastructure and related facilities, all as more fully set forth in the Plans and all other buildings, structures, fixtures, personalty, appurtenances and improvements now or hereafter on the Land.

“Intangibles” shall mean all the records and books of account now or hereafter maintained by Mortgagor in connection with the operation of the Real Estate or otherwise; all contract rights, rights to the payment of money including tax refund claims, insurance proceeds and tort claims, chattel paper, documents, instruments, general intangibles, together with all income therefrom, increases thereunder and proceeds thereof; and all judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of any of the Real Estate or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance maintained with respect to any of the Real Estate and proceeds of any sale, option or contract to sell the Real Estate or any portion thereof.

“Land” shall mean the land legally described in Exhibit A hereto, together with all easements, air rights, servitudes, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land, and the reversions, remainder, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of Mortgagor, in and to the same.

“Leases” shall mean any and all leases, subleases, licenses, rental agreements, franchise and occupancy agreements, concession agreements and other agreements, whether or not in writing, for the use or occupancy of all or any portion of the Real Estate affecting the use, enjoyment or occupancy of the Real Estate or any portion thereof now or hereafter made, whether made before or after the filing by or against Mortgagor of any petition for relief under Bankruptcy Code, together with any extension, renewal or replacement of the same.

“Mortgaged Property” shall mean all of Mortgagor’s right, title and interest in and to all of the Land, the Improvements, the Fixtures, the Agreements, the Development Documents, the Plans, the Permits, the Intangibles, the Leases and the Rents, together with any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing. Mortgaged Property shall also include all renewals, substitutions, improvements, accessions, attachments, additions, remainders, reversions, replacements and all proceeds to or of each of the foregoing, any greater estate in the Real Estate or any portion thereof that may be acquired by Mortgagor; and all conversions of the security constituted thereby so that, immediately upon such acquisition,

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construction, assemblage, placement or conversion, as the case may be, and in each such case, the foregoing shall be deemed a part of the Mortgaged Property and shall automatically become subject to the lien of this Mortgage as full and completely and with the same priority and effect as though now owned by Mortgagor and specifically described herein, without any further mortgage, assignment or conveyance by Mortgagor.

“Permits” shall mean all building permits, certificates of occupancy and other assignable governmental permits, licenses and authorizations, including, without limitation, all state, county and local occupancy certificates, and other licenses, in any way applicable to the Real Estate or any part thereof or to the development, construction, ownership, use, occupancy, operation, maintenance, and leasing of the Real Estate.

“Personal Property” shall mean such of the Mortgaged Property which constitutes personal property under the Laws of the State, including the Intangibles and any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing, any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing.

“Plans” shall mean any and all plans and specifications relating to the development and construction of the Real Estate.

“Real Estate” shall mean the Land, the Improvements and such other of the Mortgaged Property as constitutes real property under the Laws of the State, together with any and all proceeds of any and all of the foregoing, including, without limitation, any and all cash and non-cash consideration received from the sale, exchange, lease, collection or other disposition of any and all of the foregoing, any value received as a consequence of the possession of any of the foregoing (including, without limiting the generality of the foregoing, any and all real estate tax abatements now or in the future accruing to the Real Estate), any payment received from any insurer or other person or entity as a result of the destruction, loss, theft, damage or other involuntary conversion of whatever nature of any of the foregoing, and all equipment, machinery, furniture, inventory, other goods, fixtures, general intangibles, instruments, chattel paper, documents, accounts and all other property of any kind or nature which are acquired with any proceeds of any of the foregoing.

“Rents” shall mean absolutely and presently all rents, additional rents, revenues, income, issues and profits arising from the Leases and renewals and replacements thereof and any cash or security deposited in connection therewith, and together with all avails, rents, issues, cash collateral and profits arising from or accruing at anytime hereafter by virtue of any agreement for the use or occupancy of the Real Estate or any portion thereof, and together with all fees, charges and compensation for the use of parking stalls or other parking privileges, and all of the

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foregoing whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code.

“State” shall mean the State where the Real Estate is located.

“Term Loan” means the loan made pursuant to the Term Loan Agreement.

“Term Loan Agreement” means that certain Loan and Security Agreement, as the same may be amended, restated, modified or supplemented and in effect from time to time, dated of even date herewith, by and among Mortgagor, Mortgagee, CIBC Bank USA as a lender and the other financial institutions who are or hereafter become parties thereto as lenders in the original principal amount of up to \$12,500,000.

“Term Loan Documents” shall mean the Term Loan Agreement and the other documents evidencing or securing the Term Loan.

“Uniform Commercial Code” shall mean the Uniform Commercial Code in effect in the State.

2. Grant: As security for the Obligations, Mortgagor does hereby irrevocably mortgage, pledge, assign, warrant, transfer and convey all of Mortgagor’s right, title and interest in and to the Mortgaged Property to Mortgagee, its successors and assigns, and grant a security interest to Mortgagee in, and a lien upon, all of Mortgagor’s right, title and interest in and to the Mortgaged Property; hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the state or other jurisdiction where the Mortgaged Property is located providing for the exemption of homesteads from sale on execution or otherwise; provided, however, that notwithstanding anything hereinabove to the contrary the maximum principal amount of the obligations secured hereby at any one time (the “Maximum Secured Amount”) shall not exceed shall not exceed \$28,000,000.00, plus all costs of enforcement and collection of this Mortgage and the other Loan Documents, including reasonable attorney’s fees, plus the total amount of any advances made pursuant to the Loan Documents to protect the collateral and the security interest and lien created hereby, or the priority thereof, together with interest on all of the foregoing as provided in the Loan Documents.

3. Assignment of Leases and Rents: Mortgagor hereby absolutely and unconditionally sells, assigns and transfers unto Mortgagee all of Mortgagor’s right, title and interest in and to the Rents, now due and which may hereafter become due under or by virtue of any of the Leases, whether written or verbal, or any letting of, or of any agreement, whether written or oral, for the use or occupancy of the Mortgaged Property or any part thereof, which may be hereafter made or agreed to by Mortgagee under the powers herein granted, it being the intention hereby to establish an absolute transfer and assignment of all such Leases, and all the Rents, to Mortgagee, and not merely the passing of a security interest. During the continuance of an Event of Default, Mortgagor hereby constitutes and appoints Mortgagee as its true and lawful attorney-in-fact, coupled with an interest, of Mortgagor, empowered and authorized in the name, place and stead (with or without taking possession of the Mortgaged Property as provided in this

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Mortgage) of Mortgagor, (i) to demand, sue for, attach, levy, recover, and receive all Rents and give proper receipts, releases, and acquittances therefor and after deducting expenses of collection, to the extent permitted by Law, to apply the net proceeds as a credit upon any portion of the Obligations selected by Mortgagee notwithstanding the fact that such portion of the Obligations may not then be due and payable or that such portion of the Obligations is otherwise adequately secured, and Mortgagor does hereby authorize and direct any such lessee or purchaser to deliver such payment to Mortgagee and (ii) to rent, lease, let or sell all or any portion of the Mortgaged Property to any party or parties at such rental or sale and upon such terms as said Mortgagee shall, in its discretion, determine, and to collect all of said Rents arising from or accruing at any time hereafter, and now due or that may hereafter become due under each and every of the Leases or otherwise, with the same rights and powers and subject to the same immunities, exoneration of liability and rights of recourse and indemnity as Mortgagee would have upon taking possession pursuant to the provisions of this Mortgage. The foregoing appointment is irrevocable and continuing and such rights, powers, and privileges shall be exclusive in Mortgagee, its successors and assigns. It is the intention of Mortgagor and Mortgagee that the assignment contained in this Section 3 be a present, unconditional, irrevocable and absolute assignment; neither obtaining possession of the Rents nor the appointment of a receiver shall be required for perfection.

(a) Nothing contained herein shall be construed as constituting Mortgagee a “mortgagee-in-possession” in the absence of the taking of actual possession of the Mortgaged Property by Mortgagee pursuant to this Mortgage. In the exercise of the powers herein granted Mortgagee, no liability shall be asserted or enforced against Mortgagee, all such liability being expressly waived and released by Mortgagor.

(b) Mortgagor further agrees to assign and transfer to Mortgagee all future Leases upon all or any part of the Mortgaged Property and to execute and deliver, at the request of Mortgagee, all such further assurances and assignments in the Mortgaged Property as Mortgagee shall from time to time reasonably require.

(c) Although it is the intention of the parties that the assignment contained in this Section 3 shall be a present absolute assignment, it is expressly understood and agreed, anything contained herein to the contrary notwithstanding, that Mortgagor shall have a license to collect such Rents until, and Mortgagee shall not exercise any of the rights or powers conferred upon it by this Section 3 until, an Event of Default shall have occurred and be continuing under this Mortgage, the Note, the Loan Documents or any other instrument evidencing or securing the indebtedness secured hereby or delivered pursuant to any of the Loan Documents.

4. Security Agreement: This Mortgage is both a real property Mortgage and, a “security agreement” within the meaning of the Uniform Commercial Code, and a “financing statement” within the meaning of the Uniform Commercial Code. The Mortgaged Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Mortgaged Property. By executing and delivering this Mortgage, Mortgagor hereby grants to Mortgagee, as security for the Obligations, a security interest in the Personal Property to the full extent that the Personal Property may be subject to



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the Uniform Commercial Code. The beneficial owner and holder of such security interest is Mortgagee, Mortgagee will be deemed the “secured party” with respect to such security interest for all purposes of the Uniform Commercial Code and will be so identified on all financing statements filed in connection therewith, and Mortgagee shall be entitled upon the occurrence of an Event of Default to exercise all the remedies of a secured party under the Uniform Commercial Code as well as all other rights and remedies available at law or in equity. The information contained in this Section 4 is provided in order that this Mortgage shall comply with the requirements of the Uniform Commercial Code for mortgages to be effective as financing statements filed as a fixture filing. The name of the “debtor” is THE SHOPS AT BIG DEAHL, LLC; and the name of the “secured party” is CIBC Bank USA; the mailing address of the “secured party” from which information concerning the security interest may be obtained and the mailing address of the “debtor” are as set forth in Section 43 below. The debtor’s tax payer identification number is 47-5173945 and organizational number is 05381363. The types, or the items, of collateral covered hereby consist of the Personal Property and all other items set forth herein above in Section 1 which constitute fixtures or personal property. Mortgagor is the record owner of the Real Estate

5. Conditions to Grant. TO HAVE AND TO HOLD the above granted and described Mortgaged Property unto Mortgagee, and the successors and assigns of Mortgagee, forever; to secure payment to Mortgagee of the Obligations at the time and in the manner provided for its payment in the Note and in this Mortgage; PROVIDED, HOWEVER, these presents are upon the express condition that, if EITHER (i) Borrower shall well and truly pay to Mortgagee the Obligations (excluding those that are of an indemnity nature and are intended to survive the release of this Mortgage) at the time and in the manner provided in the Note, this Mortgage and the other Loan Documents, shall well and truly perform the Obligations (excluding those that are of an indemnity nature and are intended to survive the release of this Mortgage) as set forth in this Mortgage and the other Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note and the other Loan Documents, OR (ii) no “Event of Default” has occurred and is continuing at the time the Term Loan is repaid and performed in full, then these presents and the estate hereby granted shall cease, terminate and be void.

6. Payment and Performance of Obligations. Mortgagor shall duly and punctually perform and observe all terms, provisions, conditions, covenants and agreements on Mortgagor’s part to be performed or observed as provided in this Mortgage.

7. Title to Mortgaged Property and the Lien of this Mortgage. Mortgagor covenants and represents that: (a) Mortgagor has indefeasible fee simple title to all of the Real Estate free and clear of any liens, charges, encumbrances, security interests and adverse claims whatsoever, except the Permitted Exceptions (as defined below); (b) Mortgagor is the sole owner with good and indefeasible title to all of the Personal Property, free and clear of any liens, charges, encumbrances, security interests and adverse claims whatsoever, except the Permitted Exceptions; (c) Mortgagor has lawful authority to sell, assign, convey and mortgage the Mortgaged Property, and does hereby warrant generally, and agrees to defend, the Mortgaged Property and the title thereto, whether now leased or hereafter acquired, against all claims of any Person, other than with respect to Permitted Exceptions; (d) this Mortgage constitutes a valid,

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enforceable, second lien against the Real Estate, and a valid, enforceable, second lien and security interest in and to the Personal Property, subject only to the Permitted Exceptions; and (e) all representations and warranties made by Mortgagor under this Mortgage shall be true and correct in all material respects at all times during the Loan Term (as defined in the Note). As used herein the term "Permitted Exceptions" shall have the meaning set forth in the Term Loan Agreement.

8. Maintenance, Repair and Restoration. Subject to the terms of this Mortgage and the Term Loan Agreement, Mortgagor shall place and thereafter keep the Mortgaged Property in good condition, order and repair and as may be necessary to protect and preserve the value of the Mortgaged Property, causing all reasonably necessary repairs, alterations, renewals, replacement, additions, betterments and improvements to be made promptly thereof. Subject to the terms of this Mortgage and the Term Loan Agreement, Mortgagor shall promptly repair, restore or rebuild (or cause the same to be done) any of the Mortgaged Property which may become damaged or be destroyed from any cause whatsoever and pay when due all claims for labor performed and materials furnished therefor. Nothing herein is intended to limit any right Mortgagor may have to the use of insurance proceeds or condemnation awards to the extent set forth in the Term Loan Agreement.

9. Use Violations or Alterations. Mortgagor shall not use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of the Mortgaged Property in any manner which (a) violates any Laws; (b) creates a reasonable likelihood of danger unless safeguarded as required by Laws; (c) constitutes a public or private nuisance; (d) will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof, or will wholly or partially invalidate any insurance coverage required to be carried hereunder. Mortgagor shall not commit or permit any waste of the Mortgaged Property or any part thereof, whether commissive or permissive, and will not make or permit to be made any material alterations or additions to the Mortgaged Property except for the construction of the Improvements in accordance with the Term Loan Agreement or as otherwise permitted pursuant to the Term Loan Agreement. Mortgagor shall not abandon the Mortgaged Property or leave the Mortgaged Property unprotected, unguarded, vacant or deserted, and shall not allow any of the Mortgaged Property to be misused, abused or wasted, or to deteriorate.

10. Platting, Replatting, Subdivision and Resubdivision. Except for Permitted Exceptions and as otherwise expressly set forth in the Term Loan Agreement, Mortgagor shall not, without the consent of Mortgagee, impose any restrictions, agreements or covenants which run with the land upon the Land or the Improvements or any part thereof, nor plat, replat, subdivide, resubdivide or record condominium documents against the Land or any part thereof, without the prior consent of Mortgagee.

11. Permitted Exceptions; Compliance. With respect to the Permitted Exceptions, Mortgagor shall (a) timely observe and perform all covenants and obligations contained therein in all material respects; (b) not take any action or fail to take any action if the taking of such action or failure to take such action would cause a default by Mortgagor thereunder, and (c) not exercise any rights or remedies under any Permitted Exception which would be adverse to Mortgagee's interests, without the prior written consent of Mortgagee.

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12. Real Estate Taxes. Mortgagor shall pay, before any penalty, fine, interest or other cost for non-payment attaches, all real estate taxes and assessments.

13. Insurance Coverage. Mortgagor shall obtain or cause to be obtained, and shall maintain or cause to be maintained at all times during the term of the Loan, all insurance required to be carried and maintained as set forth in the Term Loan Agreement.

14. Stamp Tax. If, by the Laws of the United States of America, or of any state, county, or municipality having jurisdiction over Mortgagor or the Mortgaged Property or any part thereof, any tax is assessed or becomes due in respect of the issuance of the Note, or the granting or recording of this Mortgage or otherwise in connection with any of the other Loan Documents, Mortgagor shall pay such tax in the manner required by such Law.

15. Prepayment Privilege. Mortgagor acknowledges that neither Borrower nor Mortgagor may prepay the Note, except to the extent expressly permitted by the terms of the Loan Agreement and upon the payment of all prepayment charges, if any applicable thereto as provided in the Loan Agreement.

16. Effect of Extensions of Time and Amendments on Junior Liens and Others. If the payment of the Obligations, or any part thereof, be extended or varied, or if any part of the security therefor be released, all persons now or at any time hereafter liable therefor, or interested in the Mortgaged Property or any part thereof, shall be held to assent to such extension, variation or release; and their liability and the lien and all provisions hereof shall continue in full force and effect, the right of recourse against all such persons being expressly reserved by Mortgagee, notwithstanding any such extension, variation or release. Any Person who, upon consent by Mortgagee shall take a junior mortgage, or other junior lien upon the Mortgaged Property or any part thereof or any interest therein, shall take such lien subject to the rights of Mortgagee to supplement, amend, modify, restate and extend the Loan Documents or any of them, and to extend the maturity of the Obligations, in each and every case without obtaining the consent of the holder of such junior lien and without the lien of this Mortgage or the lien of any other Loan Documents losing priority over the rights of any such junior lien.

17. Inspection of Premises. Mortgagee, its employees and agents, shall have the right to inspect the Mortgaged Property and every part thereof, during normal business hours upon reasonable prior notice, and Mortgagor will cooperate (and will use commercially reasonable efforts to cause its agents and independent contractors to cooperate) with Mortgagee in arranging the inspections of the Mortgaged Property or any part thereof or any of the other Personal Property by Mortgagee and its agents and representatives, at such times as Mortgagee shall determine in its reasonable discretion, during normal business hours upon reasonable prior notice. Mortgagee shall have the right to inspect and make copies of all books, records and documents relating to the Mortgaged Property as Mortgagee shall determine in its reasonable discretion, during normal business hours upon reasonable prior notice.

18. Uniform Commercial Code. Mortgagor (as debtor) and Mortgagee (as secured party) agree: (i) that this Mortgage shall constitute a Security Agreement within the meaning of the Uniform Commercial Code with respect to the Personal Property; (ii) that a

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security interest in and to the Personal Property is hereby granted to Mortgagee; and (iii) that all of Mortgagor's right, title and interest therein are hereby assigned to Mortgagee; all to secure payment of the Obligations and to secure performance by Mortgagor of the terms, covenants and provisions hereof.

(a) Upon the occurrence and during the continuance of an Event of Default under this Mortgage, Mortgagee, pursuant to the appropriate provisions of the Uniform Commercial Code, shall have an option to proceed with respect to both the Real Estate and the Personal Property in accordance with its rights, powers and remedies with respect to the Real Estate, in which event the default provisions of the Uniform Commercial Code shall not apply. The parties agree that if Mortgagee shall elect to proceed with respect to the Personal Property separately from the Real Estate, Mortgagee shall have all remedies available to a secured party under the Uniform Commercial Code and ten (10) days notice of the sale of the Personal Property shall be reasonable notice. The reasonable expenses of making, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, reasonable attorneys' fees and legal expenses incurred by Mortgagee. Mortgagor agrees that Mortgagor shall not, without the written consent of Mortgagee, dispose of, remove or permit to be removed from the Mortgaged Property any of the Personal Property, and that all replacements for each and every item of Personal Property shall be at least equal in value and utility to the initial value and utility of that disposed of and in such a manner that said replacement or substituted Personal Property shall be subject to the security interest created hereby and that the security interest of Mortgagee shall be perfected and second in priority, other than as to the Permitted Exceptions, it being expressly understood and agreed that all replacements, substitutions and additions to the Personal Property shall be and become immediately subject to the security interest of this Mortgage and covered hereby. Mortgagor covenants and represents that all Personal Property now is, and that all replacements thereof, substitutions therefor or additions thereto, unless Mortgagee otherwise consents, shall be free and clear of liens, encumbrances, title retention devices and security interests of others, other than as to the Permitted Exceptions.

(b) Mortgagor and Mortgagee agree, to the extent permitted by Law, that: (i) all of the goods described within the definition of the words "Improvements" and "Fixtures" herein are or are to become fixtures on the Land, (ii) this Mortgage constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code of the State, as amended or recodified from time to time, covering any Mortgaged Property which now is or later may become fixtures attached to the Land or Improvements; and (iii) Mortgagor is the owner of the Land. The address of Mortgagor as "debtor", and the address of Mortgagee as "secured party" are as set forth in Section 43 of this Mortgage. Mortgagor agrees that the filing of a financing statement in the records normally having to do with personal Mortgaged Property shall never be construed as in any way derogating from or impairing the express declaration and intention of the parties hereto, herein above stated, that everything used in connection with the production of income from the Mortgaged Property and/or adapted for use therein and/or which is described or reflected in this Mortgage is, and at all times and for all purposes and in all proceedings, legal or equitable, shall be regarded as part of the Real Estate irrespective of whether (i)

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any such item is physically attached to the Land or Improvements, (ii) serial numbers are used for the better identification of certain equipment items capable of being thus identified in a recital contained herein or in any list filed with Mortgagee, or (iii) any such item is referred to or reflected in any such financing statement so filed at any time. Similarly, the mention in any such financing statement of (1) rights in or to the proceeds of any fire and/or hazard insurance policy, (2) any award in eminent domain proceedings for a taking or for loss of value, or (3) Mortgagor's interest as lessor in any present or future Leases or subleases or rights to Rents growing out of the use and/or occupancy of the Mortgaged Property, whether pursuant to a lease or otherwise, shall never be construed as in any way altering any of the rights of Mortgagee as determined by this instrument or impugning the priority of Mortgagee's lien granted hereby or by any other recorded document, but such mention in the financing statement is declared to be for the protection of Mortgagee in the event any court or judge shall at any time hold with respect to (1), (2) or (3) that notice of Mortgagee's priority of interest to be effective against a particular class of persons, including, but not limited to, the federal government and any subdivision or entity of the federal government, must be filed in the Uniform Commercial Code records.

(c) Mortgagor, upon the reasonable request by Mortgagee from time to time, shall execute, acknowledge and deliver to Mortgagee, a separate Security Agreement, Financing Statement or other similar security instruments, in form reasonably satisfactory to Mortgagee, with terms not inconsistent with the Loan Documents, covering all Mortgaged Property of any kind whatsoever owned by Mortgagor which in the sole and exclusive opinion of Mortgagee is essential to the operation of the Mortgaged Property and which constitutes goods within the meaning of the Uniform Commercial Code or concerning which there may be any doubt whether the title to same has been conveyed by or security interest perfected by this Mortgage under the Laws of the State, and shall further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement or certificate or other document as Mortgagee may reasonably request in order to perfect, preserve, maintain, continue and extend the security interest under and the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to Mortgagee on demand all reasonable costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such documents. Mortgagor shall from time to time, on the reasonable request of Mortgagee, deliver to Mortgagee an inventory of the Personal Property in reasonable detail.

19. Mortgagee's Right of Possession in Case of Default. Upon and during the continuance of an Event of Default in any case in which under the provisions of this Mortgage, whether before or after the entire Obligations are declared to be immediately due as aforesaid, or whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, Mortgagor shall forthwith, upon demand of Mortgagee, surrender to Mortgagee and Mortgagee shall be entitled to take actual possession of, the Mortgaged Property or any part thereof, personally, or by its agent or attorneys. In such event Mortgagee in its discretion may, as permitted by Law, enter upon and take and maintain possession of all or any part of said Mortgaged Property, together with all documents, books, records, papers and

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accounts of Mortgagor or the then owner of the Mortgaged Property relating thereto, and may exclude Mortgagor, and each of their agents or servants, wholly therefrom and may, as attorney in fact or agent of Mortgagor, or in its own name as Mortgagee and under the powers herein granted, hold, operate, manage and control the Mortgaged Property and conduct the business, if any, thereof, either personally or by its agents, and with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment or security of the Rents, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent, and with full power: (a) to cancel or terminate any Lease for any cause or on any ground which would entitle Mortgagor to cancel the same; (b) to elect to disaffirm any Lease which is then subordinate to the lien hereof, unless the same is subject to the terms of a subordination, non-disturbance and attornment agreement between Administrative Agent and such tenant; (c) to extend or modify any then existing Leases and to make new Leases, which extensions, modifications and new Leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Obligations and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor and all persons whose interests in the Mortgaged Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Obligations, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any purchaser; (d) to enter into any management, leasing or brokerage agreements covering the Mortgaged Property; (e) to make all reasonably necessary or proper repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements to the Mortgaged Property as to it may seem judicious; (f) to insure and reinsure the same and all risks incidental to Mortgagee's possession, operation and management thereof; and (g) to receive all of such Rents; hereby granting full power and authority to exercise each and every of the rights, privileges and powers herein granted at any and all times hereafter, without notice to Mortgagor.

Mortgagee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under any Leases. Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, loss or damage which it may or might incur by reason of its performance of any action authorized under this Section 19 and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements of Mortgagor except liability, loss and damage arising solely and directly from Mortgagee's willful misconduct or gross negligence. Should Mortgagee incur any such liability, loss or damage, by its performance or nonperformance of actions authorized by this Section 19, or in the defense of any claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest on any such amount that remains unpaid for more than ten (10) days after demand therefor at the Default Rate shall be secured hereby, and Mortgagor shall reimburse Mortgagee therefor immediately upon demand.

20. Restrictions on Transfer. Mortgagor shall not create, effect, contract for, consent to or permit any conveyance, sale, assignment, transfer, pledge, mortgage, security

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interest or other voluntary lien, encumbrance or alienation of the Mortgaged Property or any part thereof or interest therein, whether any such conveyance, sale, contract, assignment, transfer, pledge, mortgage, security interest, or other voluntary lien, encumbrance or alienation is effected directly or indirectly, except for Permitted Exceptions and as otherwise expressly permitted by the terms and provisions of the Term Loan Agreement.

21. Events of Default. The occurrence of an Event of Default under the Loan Agreement shall constitute an "Event of Default" under this Mortgage.

22. Remedies. Upon the occurrence of any Event of Default, the Mortgagee shall also have the right immediately to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of the Mortgagee or at any time thereafter, either before or after foreclosure sale, and without regard to the solvency or insolvency at the time of such application of any Person then liable for the payment of any of the Obligations, without regard to the then value of the Mortgaged Property or whether the same shall then be occupied, and without requiring any bond from the complainant in such proceedings, appoint a receiver for the benefit of the Mortgagee, with power to take possession, charge, and control of the Mortgaged Property, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all Rents during the pendency of such foreclosure suit.

The court may, from time to time, authorize said receiver to apply the net amounts remaining in its hands, after deducting reasonable compensation for the receiver and its counsel as allowed by the court, in payment (in whole or in part) of any or all of the Obligations, including without limitation the following, in such order of application as the Mortgagee may elect: (i) amounts due under the Loan Agreement and any Rate Management Agreements, (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage, (iii) costs and expenses of foreclosure and litigation upon the Land, (iv) insurance premiums, repairs, taxes, special assessments, water charges and interest, penalties and costs, in connection with the Land, (v) any other lien or charge upon the Mortgaged Property that may be or become superior to the lien of this Mortgage, including the Term Loan Documents, or of any decree foreclosing the same and (vi) all moneys advanced by the Mortgagee in accordance with the Loan Documents to cure or attempt to cure any Event of Default by the Mortgagor in the performance of any obligation or condition contained in any Loan Documents or this Mortgage or otherwise, to protect the security hereof provided herein, or in any Loan Documents, with interest on such advances that remain unpaid by Mortgagor for more than ten (10) days at the Default Rate. The overplus of the proceeds of sale, if any, shall then be paid to Mortgagor. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Mortgaged Property, as the Mortgagee may elect, until all of the Mortgaged Property has been foreclosed against and sold. As part of the foreclosure, the Mortgagee in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Mortgaged Property, and all right, title, interest, claim and demand therein, and the right of redemption thereof, as an entirety, or in separate lots, as Mortgagee may elect, and in one sale or in any number of separate sales held at one time or at any number of times, all in any manner and upon such notice as provided by applicable Law. Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or

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purchasers the property so sold, in the manner and form as provided by applicable law, and Mortgagee is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor, in its name and stead, to make all necessary transfers of property thus sold, and for that purpose Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof. In the case of any sale of the Mortgaged Property pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use any documents or instruments evidencing the Obligations in order that there may be credited as paid on the purchase price the amount of the Obligations. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court, all expenses of every kind reasonably paid or incurred by the Mortgagee for the enforcement, protection or collection of this security, including court costs, reasonable attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by the Mortgagor.

23. Waivers and Agreements Regarding Remedies. To the full extent Mortgagor may do so, Mortgagor hereby:

(a) agrees that it will not at any time plead, claim or take advantage of any Laws now or hereafter in force providing for any appraisalment, valuation, stay, extension or redemption, and waives and releases all rights of redemption, valuation, appraisalment, stay of execution, extension and notice of election to accelerate the Obligations.

(b) waives all rights to a marshaling of the assets of Mortgagor, including without limitation, the Mortgaged Property, or to a sale in the inverse order of alienation in the event of a foreclosure of the Mortgaged Property, and agrees not to assert any right under any Laws pertaining to the marshaling of assets, the sale in inverse order of alienation, the exemption of homestead, the administration of estates of decedents, or other matters whatsoever, to defeat, reduce or affect the right of Mortgagee under the terms of this Mortgage to a sale of the Mortgaged Property without any prior or different resort for collection, or the right of Mortgagee to the payment of the Obligations out of the proceeds of sale of the Mortgaged Property in preference to every other claimant whatsoever.

(c) waives and relinquishes any and all rights and remedies which Mortgagor may have or be able to assert by reason of the provisions of any Laws pertaining to the rights and remedies of sureties.

24. Suits to Protect the Mortgaged Property. Mortgagee shall have the power and authority (but not the duty) to institute and maintain any suits and proceedings as Mortgagee may deem advisable (a) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or which violate the terms of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property, or (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or



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otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Mortgagee's interest.

25. Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding affecting Mortgagor, or any constituent member of Mortgagor, to the extent permitted by Law, Mortgagee shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claim allowed in such proceedings for the entire amount due and payable by Mortgagor under the Loan Documents, at the date of the institution of such proceedings, and for any amounts which may become due and payable by Mortgagor after such date.

26. Discontinuance of Proceedings Position of Parties Restored. If Mortgagee shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceeding shall have been discontinued or abandoned for any reason, then and in every such case Mortgagee and Mortgagor shall be restored to their respective former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceedings had occurred or had been taken.

27. Rights Cumulative. Each right, power and remedy herein conferred upon Mortgagee is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing, at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient to Mortgagee and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy; and no delay or omission of Mortgagee in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any default or acquiescence therein. No act of Mortgagee shall be construed as an election to proceed under any one provision of this Mortgage to the exclusion of any other provision. Mortgagee shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Obligations as same shall become due, without regard to whether or not the balance of the Obligations shall then be due, and without prejudice to the right of Mortgagee thereafter to bring an action of foreclosure or any other action by reason of any other default or defaults by Mortgagor existing at the time such earlier action was commenced.

28. No Liability on Mortgagee. Notwithstanding anything contained herein to the contrary, Mortgagee shall not be obligated to perform or discharge, any Obligation, duty or liability of Mortgagor, whether under any of the Leases or otherwise, and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless of and from any and all liability, claim expense, loss or damage which Mortgagee may or might incur with respect to the Mortgaged Property, or under or by reason of its exercise of rights hereunder, and of and from any and all claims and demands whatsoever which may be asserted against Mortgagee by reason of any alleged obligations or undertakings on its part to be performed or discharged except any liability, claim expense, loss or damage arising solely and directly from Mortgagee's willful misconduct or gross negligence (as determined by a final and non-appealable judgment or order

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of court of competent jurisdiction). Mortgagee shall not have responsibility for the control, care, management or repair of the Mortgaged Property, or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Mortgaged Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Unless otherwise provided for herein, no liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted, and Mortgagor expressly waives and releases any such liability. Should Mortgagee incur any such liability, loss or damage, under any of the Leases or under or by reason hereof, or in the defense of any claims or demands, Mortgagor agrees to reimburse Mortgagee immediately upon demand for the amount thereof, including costs, expenses and reasonable attorneys' fees, together with interest thereon from the date of such payment at the interest rate set forth in the Note.

29. Intentionally Deleted.

30. Intentionally Deleted.

31. Intentionally Deleted.

32. Intentionally Deleted.

33. Intentionally Deleted.

34. Further Assurances. Mortgagor will do, execute, acknowledge and deliver all and every further acts, deeds, conveyances, transfers and assurances necessary or proper for the better assuring, conveying, mortgaging, assigning and confirming unto Mortgagee, as the case may be, all Mortgaged Property mortgaged hereby or Mortgaged Property intended so to be, whether now owned by Mortgagor or hereafter acquired, provided same does not increase the obligations, or decrease the rights, of Mortgagor under this Mortgage. Upon any failure by Mortgagor to do so after ten (10) days after written request therefor, Mortgagee may make, execute and record any and all such documents for and in the name of Mortgagor, and Mortgagor hereby irrevocably appoints Mortgagee its agent and attorney-in-fact for that purpose. Mortgagor will reimburse Mortgagee for any and all reasonable sums expended by Mortgagee in making, executing and recording such documents.

35. Mortgagee's Performance of Mortgagor's Obligations. Upon the occurrence and during the continuance of an Event of Default, or upon the occurrence and during the continuance of any emergency (which in Mortgagee's commercially reasonable opinion would or could reasonably be anticipated to endanger, impair or otherwise harm the Mortgaged Property or any part thereof and, in Mortgagee's reasonable opinion, is not being adequately addressed by Mortgagor), Mortgagee, either before or after acceleration of the Obligations or the foreclosure of this Mortgage and during the period of redemption, if any, may, but shall not be required to, make any payment or perform any act herein required of Mortgagor (whether or not Mortgagor is personally liable therefor) in any form and manner deemed expedient to Mortgagee; and Mortgagee may, but shall not be required to, make full or partial payments with respect to any Permitted Exception and any other encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any

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tax sale or forfeiture affecting the Mortgaged Property or any part thereof or contest any tax or assessment, and may, but shall not be required to rent and operate the Mortgaged Property, and pay operating costs and expenses (including without limitation reasonable management fees) of every kind and nature in connection therewith, so that the Mortgaged Property shall be operational and usable for its intended purposes. All monies paid for any of the purposes herein authorized, and all reasonable expenses paid or incurred in connection therewith, including without limitation reasonable attorneys' fees and all costs of litigation through and including post judgment and appellate proceedings, if any, and other monies advanced by Mortgagee to protect the Mortgaged Property or any part thereof, and the interest created by this Mortgage, or to pay any operating costs and expenses thereof or to keep the Mortgaged Property operational and usable for its intended purpose shall be included within the term "Obligations" as used in this Mortgage, and shall become immediately due and payable without notice, and with interest thereon at the Default Rate for any amount not paid by Mortgagor within 10 days of Mortgagee's demand therefor. Inaction of Mortgagee shall never be considered as a waiver of any right accruing to it on account of any Default on the part of Mortgagor. Mortgagee, in making any payment hereby authorized (a) relating to real estate taxes, may do so according to any bill, statement or estimate, without inquiry into the validity of any real estate tax, assessment, sale, forfeiture, tax lien or title or claim thereof; (b) for the purchase, payment, discharge, compromise or settlement of any other lien or Permitted Exception, may do so without inquiry as to the validity or amount of any claim for lien which may be asserted; or (c) in connection with the completion of construction, furnishing or equipping of the improvements or the Mortgaged Property or the rental, operation or management of the Mortgaged Property or the payment of operating costs and expenses thereof, Mortgagee may do so in such amounts and to such persons as are commercially reasonable and may enter into such contracts therefor as Mortgagee may deem appropriate and are commercially reasonable or may perform the same itself.

36. Commercial Loan. Mortgagor hereby represents and warrants that it is a business or commercial organization and further represents and warrants that the loan secured by this Mortgage was made and transacted solely for the purpose of carrying on or acquiring a business, professional, commercial or investment activity.

37. Future Advances; Maximum Indebtedness. This Mortgage is a construction mortgage and is granted to secure not only existing indebtedness, but also future advances made pursuant to or as provided in the Loan Documents, whether such advances are obligatory or to be made at the option of Mortgagee, or otherwise, to the same extent as if such future advances were made on the date of execution of this Mortgage, although there may be no advance made at the time of execution hereof, and although there may be no indebtedness outstanding at the time any advance is made. Notwithstanding anything in this Mortgage to the contrary, the maximum principal amount of the indebtedness secured by this Mortgage shall not exceed \$28,000,000.00, plus all costs of enforcement and collection of this Mortgage and the other Loan Documents, including reasonable attorney's fees, plus the total amount of any advances made pursuant to the Loan Documents to protect the collateral and the security interest and lien created hereby, or the priority thereof, together with interest on all of the foregoing as provided in the Loan Documents.

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38. Mortgagor's Successors. In the event that the ownership of Mortgaged Property, or any part thereof, becomes vested in a person or persons other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal with such successor or successors in interest of Mortgagor with reference to this Mortgage and the Obligations in the same manner as with Mortgagor; provided, however, that nothing contained in this Section 38 shall modify, limit or otherwise abrogate the restrictions on transfer set forth in Section 20.

39. Successors and Assigns. This Mortgage and each and every covenant, agreement and other provision hereof shall be binding upon Mortgagor and its successors and assigns (including, without limitation, each and every record owner from time to time of the Mortgaged Property or any other person having an interest therein), and shall inure to the benefit of Mortgagee and its successors and assigns. Wherever herein Mortgagee is referred to, such reference shall be deemed to include the holder from time to time of the Note, whether so expressed or not, and each such holder of the Note shall have and enjoy all of the rights, privileges, powers, options and benefits afforded hereby and hereunder, and may enforce each and every term and provision hereof as fully and to the same extent and with the same effect as if such holder were herein by name specifically granted such rights, privileges, powers, options and benefits and was herein by name designated Mortgagee.

40. Provisions Severable. If fulfillment of any provision of this Mortgage or any transaction related hereto shall at any time involve transcending the limit of validity prescribed by Law, then ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity; and if any clause or provision herein contained, other than the provisions requiring Mortgagor to pay the Obligations, operates or would prospectively operate to invalidate this Mortgage in whole or in part, then such clause or provision only shall be void, as though not herein contained, and the remainder of this Mortgage shall remain operative and in full force and effect; and if such clause or provision requires Mortgagor to pay any of the Obligations, then at the sole option of Mortgagee, all of the Obligations shall become due and payable.

41. Time of the Essence. Time is of the essence of each covenant, condition and provision of this Mortgage to be performed by Mortgagor.

42. Captions and Pronouns. The captions and headings of the various sections of this Mortgage are for convenience only, and are not to be construed as confirming or limiting in any way the scope or intent of the provisions hereof. Whenever the context requires or permits, the singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

43. Notices. All notices or other written communications hereunder shall be deemed to have been properly given (a) upon delivery, if delivered in person, (b) one (1) Business Day after having been deposited for overnight delivery with any reputable overnight courier service, (c) three (3) Business Days after having been deposited in any post office or mail depository regularly maintained by the U.S. Postal Service and sent by registered or certified mail, postage prepaid, return receipt requested; or (d) upon receipt, if delivered by facsimile, provided notice is also given pursuant to either clause (a), (b) or (c) above, addressed to the addresses set forth below in this Section 43 or as such party may from time to time designate by

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written notice to the other parties. Either party by notice to the other in the manner provided herein may designate additional or different addresses for subsequent notices or communications:

If to Mortgagee: CIBC Bank USA  
120 S. LaSalle Street  
Chicago, Illinois 60603  
Attention: Niquanda Reid  
Fax: (312) 564-1461

With copies to: Greenberg Traurig, LLP  
77 W. Wacker Drive, Suite 3100  
Chicago, Illinois 60601  
Attention: Michael Baum, Esq.  
Fax: (312) 456-8435

If to Mortgagor: THE SHOPS AT BIG DEAHL, LLC  
211 N. Clinton Street, Suite 3S  
Chicago, Illinois 60661  
Attn: Daniel Morisette and Daniel Lukas  
Fax: (312) 491-7397

With copies to: Linnemeyer Law, LLC  
1001 Warrenville Road, Suite 500  
Lisle, Illinois 60532  
Attn: Jonathan Linnemeyer, Esq.  
Fax: (630) 332-3601

44. Intentionally Deleted.

45. Parties Not Partners. Nothing contained in this Mortgage shall constitute Mortgagor and Mortgagee as joint venturers or partners with one another or agents for one another or render either of them liable for and debts or obligations of the other.

46. Estoppel Letters. Mortgagor, upon ten (10) Business Days' prior written notice, shall furnish Mortgagee with a written statement, duly acknowledged, setting forth the principal of, and interest on, the Obligations, and stating whether, to Mortgagor's best knowledge, any off-sets or defenses exist against such principal and interest, and, if so, the particulars thereof, and any other matters requested by Mortgagee.

47. Indemnification.

(a) In addition to all other indemnities in favor of Mortgagee or Lenders specifically provided in any of the Loan Documents, Mortgagor shall indemnify Mortgagee and Lenders and save Mortgagee and Lenders harmless from and against any and all actual losses, liabilities, suits, obligations, fines, damages, penalties, claims costs,

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charges, and expenses, including, without limitation, reasonable architect's, engineer's, attorneys' and accountant's fees and all reasonable disbursements which are imposed upon, incurred or asserted against Mortgagee or Lenders by reason of: (i) any capital improvements, renovations or other work or thing done in, on or about the Mortgaged Property or any part thereof, (ii) any use, non-use, misuse, possession, occupation, alteration, repair, condition, operation, maintenance or management of the Mortgaged Property or any part thereof or any street, drive, sidewalk, curb, passageway or space comprising a part thereof or adjacent thereto, (iii) any negligence on the part of either Mortgagor or its agents, contractors, servants, employees, licensees or invitees, (iv) any accident, injury (including death) or damage to any person or Mortgaged Property occurring in, on or about the Mortgaged Property or any part thereof or in, on or about any street, drive, sidewalk, curb, passageway or space adjacent thereof, (v) an Event of Default as hereinafter defined, (vi) any lien or claim which may be alleged to have arisen on or against the Mortgaged Property or any part thereof under the Laws of the local or state government or any other governmental or quasi-governmental authority or any liability asserted against Mortgagee with respect thereto, (vii) any tax attributable to the execution, delivery, filing or recording of this Mortgage, the Note, or any Loan Documents, or (viii) any contest permitted pursuant to the provisions of this Mortgage; provided that Mortgagor shall have no obligation to indemnify or save Mortgagee harmless from any losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges or expenses arising solely and directly from Mortgagee's or Lender's willful misconduct or gross negligence (as determined by a final and non-appealable judgment or order of court of competent jurisdiction).

(b) The obligations of Mortgagor under this Section 47 shall not in any way be affected by the absence in any case of covering insurance or by the failure or refusal of any insurance carrier to perform any obligation on its part under insurance policies affecting the Premises. If any claim, action or proceeding is made or brought against Mortgagee or any Lender by reason of any event as to which Mortgagor is obligated to indemnify, then upon demand by Mortgagee or such Lender, Mortgagor, at its sole cost and expense, shall resist or defend such claim, action or proceeding in Mortgagee's or such Lender's name, if necessary by the attorneys for Mortgagee's insurance carrier (if such claim, action or proceeding is covered by insurance), otherwise by such attorneys as Mortgagee shall approve in writing (which approval shall not be unreasonably withheld). Notwithstanding the foregoing, Mortgagee and Lenders may each engage its own attorneys in its reasonable discretion to defend it or to assist in its defense and Mortgagor shall pay the reasonable fees and disbursements of such attorneys.

48. Non-Waiver By Mortgagee. The failure of Mortgagee to insist upon strict performance of any term of this Mortgage shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of its obligation to pay the Obligations, as and when due, by reason of Mortgagee's failure to comply with any request of Mortgagor to take any action to enforce any of the provisions of this Mortgage, the Note or any of the Loan Documents. Regardless of consideration, and without the necessity for any notice to or consent by the holder of any subordinate lien, encumbrance, right, title or interest in or to the Mortgaged Property, Mortgagee may release any person or entity at any time liable for the payment of the Obligations

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or any portion thereof or any part of the security held therefor, without in any manner impairing or affecting the Note, Loan Documents or the lien thereof or the lien or priority of this Mortgage, as so extended and modified. Mortgagee may resort for the payment of the Obligations to any other security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect. Mortgagee may take action to recover the Obligations, or any portion thereof, or to enforce any covenant of this Mortgage, without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage.

## 49. Governing Law; WAIVER OF JURY TRIAL.

(a) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State where the Project is located.

(b) WAIVER OF JURY TRIAL. MORTGAGOR AND MORTGAGEE EACH WAIVES ALL RIGHTS TO TRIAL BY JURY OF ANY SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS OF ANY KIND ARISING UNDER OR RELATING TO THIS MORTGAGE. MORTGAGOR AND MORTGAGEE EACH ACKNOWLEDGE THAT THIS IS A WAIVER OF A LEGAL RIGHT AND REPRESENTS TO THE OTHER THAT THIS WAIVER IS MADE KNOWINGLY AND VOLUNTARILY. MORTGAGOR AND MORTGAGEE EACH AGREES THAT ALL SUCH SUITS, CLAIMS, COUNTERCLAIMS, AND ACTIONS SHALL BE TRIED BEFORE A JUDGE OF A COURT OF COMPETENT JURISDICTION, WITHOUT A JURY.

51. Reconveyance. Subject to the provisions of the Loan Agreement, if EITHER (i) when all of the Obligations have been paid and performed in full, OR (ii) no "Event of Default" has occurred and is continuing at the time the Term Loan is repaid and performed in full, Mortgagee shall release of record this Mortgage.

52. Attorneys Fees. If any Event of Default occurs, Mortgagor shall pay all costs of enforcement and collection, including but not limited to, reasonable attorneys' fees, whether or not such enforcement and collection includes the filing of a lawsuit. As used in this Mortgage and in the other Loan Documents, the term "attorneys' fees" or "attorneys' fees and costs" shall mean the reasonable fees and expenses of counsel to the parties hereto, which may include printing, photostating, duplicating and other expenses, air freight charges, and fees billed for law clerks, paralegals, librarians and others not admitted to the bar but performing services under the supervision of an attorney. The terms "attorneys' fees" or "attorneys' fees and costs" shall also include, without limitation, all such reasonable fees and expenses incurred with respect to appeals, arbitrations, bankruptcy proceedings and any post-judgment proceedings to collect any judgment, and whether or not any action or proceeding is brought with respect to the matter for which said fees and expenses were incurred. The provisions allowing for the recovery of post-judgment fees, costs and expenses are separate and several and shall survive the merger of the applicable Loan Document into any judgment. For purposes of this Section 52, the term "attorneys" includes attorneys who are employees of Mortgagee acting as counsel for Mortgagee, and the term "fees" shall include, without limitation, the fees charged by Mortgagee

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for its in-house counsel provided such fees are within the range of fees charged by attorneys of similar experience at medium to large sized law firms located in the City of Chicago, Illinois.

## 53. Local Law Provisions.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq. herein called the "Act") the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon the occurrence and during the continuation of an Event of Default which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee upon the occurrence and during the continuation of an Event of Default 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 or not enumerated in this Mortgage, shall be added to the Obligations.

(d) MORTGAGOR SHALL NOT AND WILL NOT APPLY FOR OR AVAIL ITSELF OF ANY APPRAISEMENT, VALUATION, STAY, EXTENSION OR EXEMPTION LAWS, OR ANY SO-CALLED "MORATORIUM LAWS," NOW EXISTING OR HEREAFTER ENACTED IN ORDER TO PREVENT OR HINDER THE ENFORCEMENT OR FORECLOSURE OF THIS MORTGAGE, BUT HEREBY WAIVES THE BENEFIT OF SUCH LAWS. MORTGAGOR FOR ITSELF AND ALL WHO MAY CLAIM THROUGH OR UNDER IT WAIVES ANY AND ALL RIGHT TO HAVE THE PROPERTY AND ESTATES COMPRISING THE PROPERTY MARSHALLED UPON ANY FORECLOSURE OF THE LIEN HEREOF AND AGREES THAT ANY COURT HAVING JURISDICTION TO FORECLOSE SUCH LIEN MAY ORDER THE PROPERTY SOLD AS AN ENTIRETY. IN THE EVENT OF ANY SALE MADE UNDER OR BY VIRTUE OF THIS MORTGAGE, THE WHOLE OF THE MORTGAGED PROPERTY MAY BE SOLD IN ONE PARCEL AS AN ENTIRETY OR IN SEPARATE LOTS OR PARCELS AT THE SAME OR DIFFERENT TIMES, ALL AS MORTGAGEE MAY DETERMINE. MORTGAGEE SHALL HAVE THE RIGHT TO BECOME THE PURCHASER AT ANY SALE MADE UNDER OR BY VIRTUE OF THIS MORTGAGE AND MORTGAGEE SHALL BE ENTITLED TO CREDIT BID THE INDEBTEDNESS OR ANY PORTION THEREOF IN MORTGAGEE'S SOLE DISCRETION.

MORTGAGOR, ON ITS OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE PROPERTY SUBSEQUENT TO THE DATE OF THIS MORTGAGE, HEREBY IRREVOCABLY WAIVES PURSUANT TO 735 ILCS 5/15-1601 OF THE FORECLOSURE ACT ANY AND ALL RIGHTS OF REINSTATEMENT (INCLUDING, WITHOUT LIMITATION, ALL RIGHTS OF



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REINSTATEMENT PROVIDED FOR IN 735 ILCS 5/15 1602) AND REDEMPTION FROM SALE OR FROM OR UNDER ANY ORDER, JUDGMENT OR DECREE OF FORECLOSURE OF THIS MORTGAGE (INCLUDING, WITHOUT LIMITATION, ALL RIGHTS OF REDEMPTION PROVIDED FOR IN 735 ILCS 5/15 1603) OR UNDER ANY POWER CONTAINED HEREIN OR UNDER ANY SALE PURSUANT TO ANY STATUTE, ORDER, DECREE OR JUDGMENT OF ANY COURT.

(e) The following notice is provided pursuant to paragraph (3) of 815 ILCS 180/10: Unless the Mortgagor provides evidence of the insurance coverage required hereby, the Mortgagee may purchase such insurance at the Mortgagor's expense to protect the Mortgagee's interests in the Mortgagor's collateral. This insurance may, but need not, protect the Mortgagor's interests. The coverage that the Mortgagee purchases may not pay any claim that the Mortgagor may make or any claim that is made against the Mortgagor in connection with the collateral. The Mortgagor may later cancel any insurance purchased by the Mortgagee, but only after providing evidence that the Mortgagor has obtained insurance as required by the Loan Documents. If the Mortgagee purchases insurance for the collateral, the Mortgagor will be responsible for the costs of that insurance, including the insurance premium, interest and any other charges that the Mortgagee may impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the obligations of the Mortgagor. The costs of the insurance may be more than the cost of insurance that the Mortgagor may be able to obtain on the Mortgagor's own.

(f) To the extent the provisions of the Illinois Interest Act (815 ILCS §205/4(l)) apply, the Obligations constitute business loans which come within the purview of 815 Section 205/4(1)(c), as well as loans secured by a mortgage on real estate which comes within the purview of 815 ILCS 205/4(1)(l).

(g) Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction that does not include either 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).

(h) In addition to any provision of this Mortgage authorizing the Mortgagee to take or be placed in possession of the Mortgaged Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the Act, to be placed in possession of the Mortgaged 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 Mortgage, all rights, powers, immunities and duties, as provided for in Sections 5/15-1701, 5/15-1702, 5/15-1703 and 5/15-1704 of the Act.

54. Term Loan. This Mortgage is subject and subordinate to the Term Loan and the Term Loan Documents (other than this Mortgage).

*[The remainder of this page is intentionally left blank.]*

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IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be duly signed and delivered the day and year first above written.

**MORTGAGOR:**

THE SHOPS AT BIG DEAHL, LLC,  
an Illinois limited liability company

By: *Daniel A. Lukas*  
Name: DANIEL A. LUKAS  
Title: MANAGER

STATE OF ILLINOIS

COUNTY OF COOK ) SS:

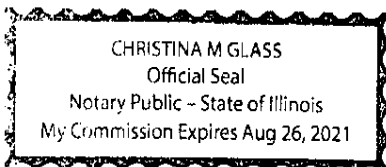
I, CHRISTINA GLASS, a Notary Public within and for said County, in the State aforesaid, duly commissioned and acting, do hereby certify that on this 10<sup>th</sup> day of MARCH, 2020, personally appeared before me DANIEL LUKAS, the MANAGER of THE SHOPS AT BIG DEAHL, LLC, an Illinois limited liability company, to me personally well known and known to be the person who signed the foregoing instrument, and who, being by me duly sworn, stated and acknowledged that he is the Manager of said company, and that he signed and delivered the same in behalf of said company, with authority, as his and its free and voluntary act and deed for the uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year in this certificate above written.

*Christina M Glass*

Notary Public

My commission expires: AUGUST 24, 2021



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## EXHIBIT A

### LEGAL DESCRIPTION

Real property in the City of Chicago, County of Cook, State of Illinois, described as follows:

#### PARCEL 1:

LOTS 1, 2 AND 3 IN THE SENG COMPANY'S RESUBDIVISION OF PART OF YALE RESUBDIVISION OF BLOCK 58 IN ELSTON'S ADDITION TO CHICAGO, IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY ILLINOIS, EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PROPERTY:

THE EASTERLY 109 FEET (AS MEASURED PERPENDICULAR TO THE WEST LINE OF NORTH DAYTON STREET) OF LOTS 1, 2, AND 3 IN THE SENG COMPANY'S RESUBDIVISION OF PART OF YALE RESUBDIVISION OF BLOCK 58 IN ELSTON'S ADDITION TO CHICAGO, IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

LOTS 14, 15, 16, 17, 18 AND THE NORTHERLY 16 FEET OF LOT 19 AND THE VACATED ALLEY EAST OF AND ADJOINING SAID LOTS IN J. A. YALE'S RESUBDIVISION OF BLOCK 58 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

THAT PART OF VACATED NORTH FREMONT STREET VACATED BY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHICAGO, PASSED JANUARY 15, 1965 AND RECORDED APRIL 9, 1965 AS DOCUMENT 19431486 AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 14 IN BLOCK 58 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN SAID ELSTON'S ADDITION TO CHICAGO AND RUNNING THENCE SOUTHEASTWARDLY ALONG THE WESTERLY LINE OF LOT 14 TO 18, BOTH INCLUSIVE, IN SAID JOHN A. YALE'S RESUBDIVISION, ALONG THE WESTERLY LINE OF SAID 18 PRODUCED SOUTHERLY 16 FEET AND ALONG THE WESTERLY LINE OF LOT 3 IN THE SENG COMPANY'S RESUBDIVISION OF PART OF YALE'S RESUBDIVISION OF BLOCK 58 IN SAID ELSTON'S ADDITION TO CHICAGO, IN COOK COUNTY, ILLINOIS, A DISTANCE OF 226.75 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE WESTWARDLY ALONG A STRAIGHT LINE, A DISTANCE OF 53.72 FEET TO THE SOUTHEAST CORNER OF LOT 1 IN THE RESUBDIVISION OF LOT 1 IN JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN SAID

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ELSTON'S ADDITION TO CHICAGO, IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTHWESTWARDLY ALONG THE EASTERLY LINE OF SAID LOT 1, A DISTANCE OF 222.61 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, AND THENCE EAST ALONG A STRAIGHT LINE, A DISTANCE 52.35 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 1, 2 AND 3 IN THE RESUBDIVISION OF LOT 1 IN JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN SAID ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 5: INTENTIONALLY DELETED

PARCEL 6: INTENTIONALLY DELETED

PARCEL 7:

LOT 3 IN JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 8:

THAT PART OF LOT 2 IN JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED PER DOCUMENT NUMBER 4571265, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWESTERLY CORNER OF LOT 3 IN SAID JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57; THENCE NORTH 57 DEGREES 42 MINUTES 28 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 44.44 FEET TO THE SOUTHEASTERLY CORNER OF SAID LOT 3 FOR A PLACE OF BEGINNING; THENCE CONTINUING NORTH 57 DEGREES 42 MINUTES 28 SECONDS EAST ALONG THE EASTERLY EXTENSION OF SAID SOUTH LINE OF LOT 3, A DISTANCE OF 24.53 FEET TO THE EASTERLY LINE OF SAID LOT 2; THENCE NORTHWESTERLY ALONG SAID NORTHEASTERLY LINE, BEING A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 265.87 FEET, A CHORD BEARING OF NORTH 67 DEGREES 11 MINUTES 23 SECONDS WEST, 121.76 FEET TO THE WESTERLY LINE OF SAID LOT 2; THENCE SOUTH 32 DEGREES 20 MINUTES 20 SECONDS EAST ALONG SAID WESTERLY LINE 39.47 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 2; THENCE SOUTHEASTERLY ALONG SAID SOUTHWESTERLY LINE BEING A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 282.87 FEET, A CHORD BEARING OF SOUTH 69 DEGREES 03 MINUTES 54 SECONDS EAST, 74.53 FEET TO THE POINT OF BEGINNING.

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PARCEL 9:

THOSE PARTS OF LOTS 2 AND 4 IN JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57 IN JOHN A. YALE'S RESUBDIVISION OF BLOCKS 38, 39, 40, 42, 43, 44, 45, 57, 58, 59, 60, 61 AND 72 IN ELSTON'S ADDITION TO CHICAGO IN SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF

THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED PER DOCUMENT NUMBER 4571265, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWESTERLY CORNER OF LOT 3 IN SAID JOHNSON AND CARLSON'S RESUBDIVISION OF BLOCK 57; THENCE NORTH 57 DEGREES 42 MINUTES 28 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 3 AND EASTERLY EXTENSION OF SAID LOT 3, A DISTANCE OF 68.97 FEET TO THE NORTHEASTERLY LINE OF SAID LOT 2; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 2 THE FOLLOWING TWO COURSES; (1) THENCE SOUTHEASTERLY ALONG SAID NORTHEASTERLY LINE, BEING A CURVE CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 265.87 FEET, A CHORD BEARING OF SOUTH 83 DEGREES 53 MINUTES 46 SECONDS EAST, 33.28 FEET TO A POINT OF CURVATURE; (2) THENCE SOUTH 87 DEGREES 28 MINUTES 56 SECONDS EAST 97.37 FEET; THENCE SOUTH 57 DEGREES 24 MINUTES 17 SECONDS WEST ALONG A LINE 174.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF SAID LOT 4, A DISTANCE OF 174.93 FEET TO THE WEST LINE OF SAID LOT 4; THENCE NORTH 32 DEGREES 20 MINUTES 20 SECONDS WEST ALONG SAID WEST LINE 77.17 FEET TO THE POINT OF BEGINNING.

PARCEL 10:

NON-EXCLUSIVE EASEMENT(S) FOR THE BENEFIT OF PARCEL 1 AS CONTAINED IN GRANT OF EASEMENT RECORDED JUN 28, 1979 AS DOCUMENT 25028219.

855 West Blackhawk Street, Chicago, Illinois

PIN: 17-05-218-005-0000  
 17-05-218-006-0000  
 17-05-218-007-0000  
 17-05-218-008-0000  
 17-05-218-009-0000 (portion)  
 17-05-218-010-0000 (portion)  
 17-05-217-001-0000  
 17-05-217-002-0000  
 17-05-217-003-0000  
 17-05-217-008-0000

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## EXHIBIT B

### PERMITTED EXCEPTIONS

1. General real estate taxes for the year(s) 2019 final installment, and subsequent years, a lien not yet due or payable.
2. Reservation by the City of Chicago for itself and for the benefit of such public and quasi-public utility agencies as may be involved, easements to maintain in the public street as therein vacated, the existing municipally-owned service facilities and public and quasi-public utility facilities, at their present locations in the public street as therein vacated, and to repair and operate such facilities and utilities; the easement with respect to each such facility to remain in effect until, and to terminate upon, the abandonment or release of such facility or the relocation of such facility outside the public street as therein vacated, in accordance with plans to be approved by the City of Chicago in the case of a municipally owned service facility, or to be approved by the public or quasi-public agency involved, in the case of other service facilities, as contained in the ordinance passed January 15, 1965 and recorded April 9, 1965 as Document 19431486.

Note: Release by the Commonwealth Edison Company recorded October 24, 1966 as Document 19976496 of all rights under said ordinance as to Parcel 3 only.

3. Obligations of grantee contained in Grant of Easement made by Hoover Universal, Inc. to Evelyn O. Nertewitz recorded June 28, 1979 as Document 25028219 for purposes of access to and use and purchase of electricity and electric current supplied by the Commonwealth Edison Company, and access to and use and maintenance of transformers, switches, conduits, wires, support poles and all other equipment necessary for access to or continuation of electric service from, over and across Lot 5 in Seng company's Resubdivision and part of vacated North Fremont Street lying westerly of Lot 5 for the benefit of Lots 1, 3 and 3 in Seng Company's Resubdivision.
4. Amended and Restated Access and Parking Easement Agreement recorded October 03, 2018 as Document No. 1827657061.
5. Survey prepared by V3 Companies, Ltd., dated January 6, 2020, under Project No. 14244, shows the following:
  - A) Construction/Demolition in Progress.
6. Rights of public or quasi-public utilities, if any, in the vacated street or alley.
7. First Mortgage Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing from The Shops at Big Deahl, LLC to CIBC Bank USA recorded [REDACTED], 2020 as [REDACTED].
8. UCC Financing Statement recorded [REDACTED], 2020 as [REDACTED].