

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud 844-768-1713



2024034001

Doc# 2024034001 Fee \$88.00

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

EDWARD M. MOODY

COOK COUNTY RECORDER OF DEEDS

DATE: 08/27/2020 09:15 AM PG: 1 OF 2

The property identified as: PIN: 12-34-206-004-0000

Address:

Street: 2233 West Street

Street line 2:

City: River Grove

State: IL

ZIP Code: 60171

Lender: Teachers Insurance and Annuity Association of America

Borrower: BPREP 2233 West Street LLC

Loan / Mortgage Amount: \$54,000,000.00

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.

FIDELITY NATIONAL TITLE FCHI 2000357LI 1 of 3

Certificate number: 70259ACB-8405-48C4-8A2C-37642C4DDD8F

Execution date: 8/21/2020

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Authorization ID # AAA-8219
Investment ID #0009195
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**RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:**

CARLTON FIELDS
ONE STATE STREET, SUITE 1800
HARTFORD, CONNECTICUT 06103
ATTENTION: H. SCOTT MILLER
860-392-5000

SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

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

by

BPREP 2233 WEST STREET LLC

as **Grantor**

to

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA

as **Lender**

Dated as of August 21, 2020

Property Address:
**2233 West Street
River Grove, IL
Cook County**

P.I.N.

12-34-206-004-0000

12-34-206-003-0000

12-34-206-028-0000

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

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "**Security Instrument**") is made as of August 21, 2020, by **BPREP 2233 WEST STREET LLC**, a Delaware limited liability company having an office at 250 Vesey Street, 15th Floor, New York, New York ("**Grantor**"), as grantor, to **TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA**, a New York corporation ("**Lender**") having an office in care of Nuveen Alternatives Advisors LLC, 730 Third Avenue, New York, New York 10017, as mortgagee.

RECITALS:

A. Lender agreed to make and Grantor and the other Borrowers (as defined in the below-defined Loan Agreement) agreed to accept a \$54,000,000 loan (the "**Loan**").

B. The Loan is evidenced and governed by, among other things, that certain Promissory Note in the principal amount of \$54,000,000 dated as of the date hereof from Grantor and the other Borrowers to Lender (as the same may be amended, replaced, supplemented or otherwise modified from time to time, the "**Note**"), and that certain Loan Agreement dated as of the date hereof by and among Grantor and the other Borrowers and Lender (as the same may be amended, replaced, supplemented or otherwise modified from time to time, the "**Loan Agreement**").

C. To secure the Loan, this Security Instrument encumbers, among other things, Grantor's fee interest in the real property located in the Village of River Grove, Illinois, more particularly described in **Exhibit A** (the "**Land**").

AGREEMENT:

NOW, THEREFORE, in consideration of the Loan and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Lender agree as follows:

ARTICLE I

DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.1 Definitions. All capitalized terms not expressly defined in this Security Instrument will have the meanings given in the Loan Agreement.

Section 1.2 Rules of Construction. This Security Instrument will be interpreted in accordance with the rules of construction set forth in Exhibit B of the Loan Agreement.

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ARTICLE II

GRANTING CLAUSES

Section 2.1 Encumbered Property. Grantor irrevocably grants, deeds, mortgages, warrants, conveys, assigns and pledges to Lender, and grants to Lender a security interest in, the following property, rights, interests and estates now or in the future owned or held by Grantor (however, as related to property owned by tenants, only to the extent of Grantor's residual interest as landlord, if any, in the same) (the "**Property**") for the uses and purposes set forth in this Security Instrument forever (capitalized terms used in this Section 2.1 and 2.3 and not defined in this Security Instrument or the Loan Agreement have the meanings ascribed to them in the Uniform Commercial Code):

- (i) the Land;
- (ii) all buildings and improvements located on the Land (the "**Improvements**");
- (iii) all easements; rights of way or use, including any rights of ingress and egress; streets, roads, ways, sidewalks, alleys and passages; strips and gores; sewer rights; water, water rights, water courses, riparian rights and drainage rights; air rights and development rights; oil and mineral rights; and tenements, hereditaments and appurtenances, in each instance adjoining or otherwise appurtenant to or benefiting the Land or the Improvements;
- (iv) all General Intangibles (including Software) and Goods, related to, attached to, contained in or used in connection with the Land or the Improvements (excluding any personal property owned by tenants);
- (v) all agreements, ground leases, grants of easements or rights-of-way, permits, declarations of covenants, conditions and restrictions, disposition and development agreements, planned unit development agreements, cooperative, condominium or similar ownership or conversion plans, management, leasing, brokerage or parking agreements or other material documents affecting Grantor or the Property but expressly excluding the Leases (the "**Property Documents**");
- (vi) all Leases and Rents;
- (vii) all Inventory held for sale, lease or resale or furnished or to be furnished under contracts of service, or used or consumed in the ownership, use or operation of the Property and all Documents evidencing any part of any of the foregoing;

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- (viii) all Accounts, Documents, Goods, Instruments, money, Deposit Accounts, Chattel Paper, Letter-of-Credit Rights, Investment Property, General Intangibles and Supporting Obligations relating to the Property, including all Reserves and any interest credited thereon;
- (ix) all awards and other compensation paid after the date of this Security Instrument for any Condemnation that is not payable to a tenant in accordance with the terms of its Lease (the "**Condemnation Awards**");
- (x) all proceeds of and all unearned premiums on the Policies (the "**Insurance Proceeds**");
- (xi) all licenses, certificates of occupancy, contracts, management agreements, operating agreements, operating covenants, franchise agreements, permits and variances relating to the Property;
- (xii) all books, records and other information, wherever located, which are in Grantor's possession, custody or control or to which Grantor is entitled at law or in equity and which are related to the Property, including all computer hardware and software or other equipment used to record, store, manage, manipulate or access the information; and
- (xiii) all after-acquired title to or remainder or reversion in any of the property described in this Section; all proceeds (excluding, however, sales or other dispositions of Inventory in the ordinary course of the business of operating the Land or the Improvements), replacements, substitutions, products, accessions and increases of or for the Property; all additions, accessions and extensions to, improvements of or for the Property; and all additional lands, estates, interests, rights or other property acquired by Grantor after the date of this Security Instrument for use in connection with the Land or the Improvements, all without the need for any additional mortgage, deed, assignment, pledge or conveyance to Lender but Grantor will execute and deliver to Lender, upon Lender's request, any documents reasonably requested by Lender to further evidence the foregoing.

Section 2.2 Habendum Clause. Intentionally Omitted.

Section 2.3 Security Agreement.

(a) The Property includes both real and personal property and this Security Instrument is a real property mortgage and also a "security agreement" and a "financing statement" within the meaning of the Uniform Commercial Code. By executing and delivering this Security Instrument, Grantor grants to Lender, as security for the Obligations, a security interest in the Property to the full extent that any of the Property may be subject to the Uniform Commercial Code.

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(b) This Security Instrument constitutes a fixture filing under the Laws of the state in which the Property is located and for such purpose, Grantor represents, as of the date hereof, that the following information set forth in clauses (i) and (v) is true and correct:

(i) The exact legal name and address of Debtor is:

BPREP 2233 West Street LLC
250 Vesey Street 15th Floor
New York, NY 10281

(ii) Name and address of Secured Party:

Teachers Insurance and Annuity Association of America
c/o Nuveen Alternatives Advisors
730 Third Avenue
New York, NY 10017

(iii) Description of the types (or items) of property covered by this Financing Statement: All of the Property described in Section 2.1 above, excluding the Land. Notwithstanding any provisions hereof to the contrary, the term "Encumbered Property" shall not include any right, title, or interest of Debtors in the name "Brookfield", or any combination of words using the word "Brookfield", any corporate logo associated therewith, or other intellectual property rights in such name or associated corporate logo.

(iv) Description of real estate to which collateral is attached or upon which it is located: Described in **Exhibit A**.

(v) Debtor is a registered organization (within the meaning of Section 9-503(a) of the Uniform Commercial Code), and Debtor's jurisdiction of organization (within the meaning of Section 9-503(e) of the Uniform Commercial Code) is the State of Delaware.

Lender may file this Security Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Security Instrument or of any other security agreement or financing statement is sufficient as a financing statement. The foregoing is intended to grant in favor of Lender a first priority continuing lien and security interest in all of Grantor's personal property. Grantor authorizes Lender and its counsel to file Uniform Commercial Code financing statements in form and substance satisfactory to Lender, describing the collateral as "all assets" or "all fixtures" of Grantor, as applicable, whether now owned or existing or hereafter acquired or arising and wheresoever located, including all accessions thereto and products and proceeds thereof, or using words with similar effect provided in each case the exclusion described in clause (iii) above shall be explicitly noted.

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Section 2.4 Conditions to Grant. This Security Instrument is made on the express condition that if Grantor pays and performs the Obligations in full in accordance with the Loan Documents, then, unless expressly provided otherwise in the Loan Documents, the Loan Documents will be released at Grantor's expense.

ARTICLE III

OBLIGATIONS SECURED

Section 3.1 The Obligations. This Security Instrument secures the Principal, the Late Charges, the Prepayment Premium, the Evasion of Prepayment Premium, the Expenses, any additional advances made by Lender pursuant to the Loan Documents, all interest accruing on such amounts pursuant to the Loan Documents, and all other amounts payable under the Loan Documents (collectively, the "**Debt**") and also secures both the timely payment of the Debt as and when required and the timely performance of all other obligations and covenants to be performed under the Loan Documents (collectively, the "**Obligations**").

Section 3.2 Additional Collateral. The Property is part of the collateral, which includes certain other real and personal property owned by Grantor and the other Borrowers (however, as related to property owned by tenants, only to the extent of Grantor's residual interest as landlord, if any, in the same), all of which secures the Debt and the other Obligations, including any obligations covenants and arising under the various Security Instruments, deeds of trust, security deeds, assignment of leases and rents and other security instruments and agreements executed by the other Borrowers.

ARTICLE IV

LEASES AND RENTS

Section 4.1 Leases and Rents.

(a) Grantor assigns the Leases and the Rents to Lender absolutely and unconditionally and not merely as additional collateral or security for the payment and performance of the Obligations, but subject to a license back to Grantor of the right to collect the Rents unless and until an Event of Default occurs at which time the license will terminate automatically, all as more particularly set forth in the Assignment, the provisions of which are incorporated in this Security Instrument by reference.

(b) Grantor appoints Lender as Grantor's attorney-in-fact, which appointment is a power coupled with an interest, to execute unilaterally and record, at Lender's election, a document subordinating this Security Instrument to the Leases, provided that the subordination will not affect (i) the priority of Lender's entitlement to Insurance Proceeds or Condemnation Awards or (ii) the priority of this Security Instrument over intervening liens or liens arising under or with respect to the Leases.

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ARTICLE V

TRANSFERS, LIENS AND ENCUMBRANCES

Section 5.1 Prohibitions on Transfers, Liens and Encumbrances.

(a) It shall be an Event of Default and, at the sole option of Lender, Lender may accelerate the Obligations and the entire Obligations shall become immediately due and payable if a breach of Section 12.1 of the Loan Agreement shall occur.

ARTICLE VI

FURTHER ASSURANCES

Section 6.1 Further Assurances.

(a) Grantor will execute, acknowledge and deliver to Lender, or any other entity Lender designates, any additional or replacement documents and perform any additional actions that Lender determines, in its reasonable discretion, are reasonably necessary to evidence, perfect or protect Lender's first lien on and prior security interest in the Property or to carry out the intent or facilitate the performance of the provisions of this Security Instrument.

(b) Grantor appoints Lender as Grantor's attorney-in-fact to perform, at Lender's election, any actions and to execute and record any additional or replacement documents necessary to effectuate the actions referred to in this Section, in each instance only at Lender's election and only to the extent Grantor has failed to comply with the terms of this Section beyond any applicable notice and cure period. The foregoing appointment is a power coupled with an interest and irrevocable.

ARTICLE VII

DEFAULTS AND REMEDIES

Section 7.1 Events of Default. The occurrence of an Event of Default shall constitute, at Lender's option, an Event of Default under this Security Instrument and the other Loan Documents.

Section 7.2 Remedies.

(a) If an Event of Default occurs, Lender may take any of the following actions (the "**Remedies**") without notice to Grantor:

- (i) declare all or any portion of the Debt immediately due and payable;
- (ii) pay or perform any Obligation;
- (iii) institute a Proceeding for the specific performance of any Obligation;

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- (iv) apply for and obtain the appointment of a receiver to be vested with the fullest powers permitted by Law, without bond being required, which appointment may be made ex parte, as a matter of right and without regard to the value of the Property, the amount of the Debt or the solvency of Grantor or any other Person liable for the payment or performance of any portion of the Obligations;
- (v) directly, by its agents or representatives or through a receiver appointed by a court of competent jurisdiction, enter on the Land and Improvements, take possession of the Property, dispossess Grantor and exercise Grantor's rights with respect to the Property, either in Grantor's name or otherwise;
- (vi) institute a Proceeding for the foreclosure of this Security Instrument or, if applicable, sell by power of sale, all or any portion of the Property;
- (vii) institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien of this Security Instrument for the balance of the Debt not then due;
- (viii) exercise any and all rights and remedies granted to a secured party under the Uniform Commercial Code;
- (ix) exercise the Assignment Remedies and any other remedies provided under the Loan Documents or any guaranty or indemnity delivered in connection with the Loan; and
- (x) pursue any other right or remedy available to Lender at Law, in equity or otherwise.

(b) If an Event of Default occurs and is continuing, the license granted to Grantor in the Loan Documents to collect Rents will terminate automatically without any action required of Lender.

Section 7.3 General Provisions Pertaining to Remedies.

(a) The Remedies are cumulative and may be pursued concurrently or otherwise, at such time and in such order as Lender may determine in its sole discretion and without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Grantor.

(b) The enumeration in the Loan Documents of specific rights or powers will not be construed to limit any general rights or powers or impair Lender's rights with respect to the Remedies.

(c) If Lender exercises any of the Remedies, Lender will not be deemed a mortgagee -in-possession unless Lender has elected affirmatively to be a mortgagee-in-possession.

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(d) Lender will not be liable for any act or omission of Lender in connection with the exercise of the Remedies.

(e) Lender's right to exercise any Remedy will not be impaired by any delay in exercising or failure to exercise the Remedy and the delay or failure will not be construed as extending any cure period or constitute a waiver of the Event of Default.

(f) If an Event of Default occurs and is continuing, Lender's payment or performance or acceptance of payment or performance will not be deemed a waiver or cure of the Event of Default.

(g) Lender's acceptance of partial payment or receipt of Rents will not extend or affect any grace period, constitute a waiver of an Event of Default or constitute a rescission of Acceleration.

Section 7.4 General Provisions Pertaining to Receiver and other Remedies.

(a) If an Event of Default occurs and is continuing, any court of competent jurisdiction will, upon application by Lender, appoint a receiver as designated in the application and issue an injunction prohibiting Grantor from interfering with the receiver, collecting Rents, disposing of any Rents or any part of the Property, committing waste or doing any other act that will tend to affect the preservation of the Leases, the Rents and the Property and Grantor approves the appointment of the designated receiver or any other receiver appointed by the court. Grantor agrees that the appointment may be made *ex parte* and as a matter of right to Lender, either before or after sale of the Property, without further notice, and without regard to the solvency or insolvency, at the time of application for the receiver, of the Person or Persons, if any, liable for the payment of any portion of the Debt and the performance of any portion of the Obligations and without regard to the value of the Property or whether the Property is occupied as a homestead and without bond being required of the applicant.

(b) The receiver will be vested with the fullest powers permitted by Law including all powers necessary or usual in similar cases for the protection, possession and operation of the Property and all the powers and duties of Lender as a mortgagee-in-possession as provided in the Security Instrument and may continue to exercise all the usual powers and duties until the receiver is discharged by the court.

(c) In addition to the Remedies and all other available rights, Lender or the receiver may take any of the following actions if an Event of Default occurs and is continuing:

- (i) take exclusive possession, custody and control of the Property and manage the Property so as to prevent waste;
- (ii) require Grantor to deliver to Lender or the receiver all keys, security deposits, operating accounts, prepaid Rents, past due Rents, the Financial Books and Records and all original counterparts of the Leases and the Property Documents;

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- (iii) collect, sue for and give receipts for the Rents and, after paying all expenses of collection, including reasonable receiver's, broker's and attorney's fees, apply the net collections to any portion of the Debt selected by Lender in its sole discretion;
- (iv) enter into, modify, extend, enforce, terminate, renew or accept surrender of Leases and evict tenants except that in the case of a receiver, such actions may be taken only with the written consent of Lender as provided in this Security Instrument and in the Assignment;
- (v) enter into, modify, extend, enforce, terminate or renew Property Documents except that in the case of a receiver, such actions may be taken only with the written consent of Lender as provided in this Security Instrument and in the Assignment;
- (vi) appear in and defend any Proceeding brought in connection with the Property and bring any Proceeding to protect the Property as well as Grantor's and Lender's respective interests in the Property (unless any such Proceeding has been assigned previously to Lender in the Assignment, or if so assigned, Lender has not expressly assigned such Proceeding to the receiver and consented to such appearance or defense by the receiver); and
- (vii) perform any act in the place of Grantor that Lender or the receiver deems necessary (A) to preserve the value, marketability or rentability of the Property; (B) to increase the gross receipts from the Property; or (C) otherwise to protect Grantor's and Lender's respective interests in the Property.

(d) Grantor appoints Lender as Grantor's attorney-in-fact, at Lender's election, to perform any actions and to execute and record any instruments necessary to effectuate the actions described in this Section, in each instance only at Lender's election and only to the extent Grantor has failed to comply with the provisions of this Section.

Section 7.5 General Provisions Pertaining to Foreclosures and the Power of Sale. The following provisions will apply to any Proceeding to foreclose and to any sale of the Property by power of sale or pursuant to a judgment of foreclosure and sale:

- (i) Lender's right to institute a Proceeding to foreclose or to sell by power of sale will not be exhausted by a Proceeding or a sale that is defective or not completed;
- (ii) any sale may be postponed or adjourned by Lender by public announcement at the time and place appointed for the sale without further notice;

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- (iii) with respect to any sale pursuant to a judgment of foreclosure and sale or by power of sale, the Property may be sold as an entirety or in parcels, at one or more sales, at the time and place, on terms and in the order that Lender deems expedient in its sole discretion;
- (iv) if a portion of the Property is sold pursuant to this Article, the Loan Documents will remain in full force and effect with respect to any unmatured portion of the Debt and this Security Instrument will continue as a valid and enforceable first lien on and security interest in the remaining portion of the Property, subject only to the Permitted Exceptions, without loss of priority and without impairment of any of Lender's rights and remedies with respect to the unmatured portion of the Debt;
- (v) Lender may bid for and acquire the Property at a sale and, in lieu of paying cash, may credit the amount of Lender's bid against any portion of the Debt selected by Lender in its sole discretion after deducting from the amount of Lender's bid the expenses of the sale, costs of enforcement and other amounts that Lender is authorized to deduct at Law, in equity or otherwise; and
- (vi) Lender's receipt of the proceeds of a sale will be sufficient consideration for the portion of the Property sold and Lender will apply the proceeds as set forth in this Security Instrument.

Section 7.6 Application of Proceeds. Lender may apply the proceeds of any sale of the Property by power of sale or pursuant to a judgment of foreclosure and sale and any other amounts collected by Lender in connection with the exercise of the Remedies to payment of the Debt in such priority and proportions as Lender may determine in its sole discretion or in such priority and proportions as required by Law.

Section 7.7 Power of Attorney. Grantor appoints Lender as Grantor's attorney-in-fact to perform any actions necessary and incidental to exercising the Remedies. The foregoing appointment is a power coupled with an interest and is irrevocable.

Section 7.8 Tenant at Sufferance. If Lender or a receiver enters the Property in the exercise of the Remedies and Grantor is allowed to remain in occupancy of the Property, Grantor will pay to Lender or the receiver, as the case may be, in advance, a reasonable rent for the Property occupied by Grantor. If Grantor fails to pay the rent, Grantor may be dispossessed by the usual Proceedings available against defaulting tenants.

ARTICLE VIII

LIMITATION OF LIABILITY

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This Security Instrument is subject to the limitations on liability set forth in Section 15.1 of the Loan Agreement.

ARTICLE IX**WAIVERS**

Section 9.1 Waiver of Statute of Limitations. TO THE EXTENT PERMITTED BY APPLICABLE LAW, GRANTOR WAIVES THE RIGHT TO CLAIM ANY STATUTE OF LIMITATIONS AS A DEFENSE TO GRANTOR'S PAYMENT AND PERFORMANCE OF THE OBLIGATIONS.

Section 9.2 Waiver of Notice. GRANTOR WAIVES THE RIGHT TO RECEIVE ANY NOTICE FROM LENDER WITH RESPECT TO THE LOAN DOCUMENTS EXCEPT FOR THOSE NOTICES THAT LENDER IS EXPRESSLY REQUIRED TO DELIVER PURSUANT TO THE LOAN DOCUMENTS.

Section 9.3 Waiver of Marshalling and Other Matters. GRANTOR WAIVES THE BENEFIT OF ANY RIGHTS OF MARSHALLING OR ANY OTHER RIGHT TO DIRECT THE ORDER IN WHICH ANY OF THE PROPERTY WILL BE (i) SOLD; OR (ii) MADE AVAILABLE TO ANY ENTITY IF THE PROPERTY IS SOLD BY POWER OF SALE OR PURSUANT TO A JUDGMENT OF FORECLOSURE AND SALE. TO THE EXTENT PERMITTED BY LAW, GRANTOR ALSO WAIVES THE BENEFIT OF ANY LAWS RELATING TO APPRAISEMENT, VALUATION, STAY, EXTENSION, REINSTATEMENT, MORATORIUM, HOMESTEAD AND EXEMPTION RIGHTS OR A SALE IN INVERSE ORDER OF ALIENATION.

Section 9.4 Waiver of Trial By Jury. TO THE EXTENT PERMITTED BY LAW, GRANTOR AND LENDER EACH WAIVE TRIAL BY JURY IN ANY PROCEEDING BROUGHT BY OR AGAINST, OR COUNTERCLAIM OR CROSS-COMPLAINT ASSERTED BY OR AGAINST THE OTHER PARTY RELATING TO THE LOAN, THE PROPERTY DOCUMENTS OR THE LEASES.

Section 9.5 Waiver of Counterclaim. GRANTOR WAIVES THE RIGHT TO ASSERT A COUNTERCLAIM OR CROSS-COMPLAINT, OTHER THAN COMPULSORY OR MANDATORY COUNTERCLAIMS OR CROSS-COMPLAINTS, IN ANY PROCEEDING LENDER BRINGS AGAINST GRANTOR RELATING TO THE LOAN, INCLUDING ANY PROCEEDING TO ENFORCE REMEDIES.

Section 9.6 Waiver of Judicial Notice and Hearing. GRANTOR WAIVES ANY RIGHT GRANTOR MAY HAVE UNDER LAW TO NOTICE OR TO A JUDICIAL HEARING PRIOR TO THE EXERCISE OF ANY RIGHT OR REMEDY PROVIDED BY THE LOAN DOCUMENTS TO LENDER AND GRANTOR WAIVES THE RIGHTS, IF ANY, TO SET ASIDE OR INVALIDATE ANY SALE DULY CONSUMMATED IN ACCORDANCE WITH THE PROVISIONS OF THE LOAN DOCUMENTS ON THE GROUND (IF SUCH BE

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THE CASE) THAT THE SALE WAS CONSUMMATED WITHOUT A PRIOR JUDICIAL HEARING.

Section 9.7 Waiver of Subrogation. GRANTOR WAIVES ALL RIGHTS OF SUBROGATION TO LENDER'S RIGHTS OR CLAIMS RELATED TO OR AFFECTING THE PROPERTY OR ANY OTHER SECURITY FOR THE LOAN UNTIL THE LOAN IS PAID IN FULL AND ALL FUNDING OBLIGATIONS UNDER THE LOAN DOCUMENTS HAVE BEEN TERMINATED.

Section 9.8 General Waiver. GRANTOR ACKNOWLEDGES THAT (A) GRANTOR AND THE OTHER BORROWERS AND THEIR RESPECTIVE PARTNERS, MEMBERS OR PRINCIPALS, AS THE CASE MAY BE, ARE KNOWLEDGEABLE BORROWERS OF COMMERCIAL FUNDS AND EXPERIENCED REAL ESTATE DEVELOPERS OR INVESTORS WHO UNDERSTAND FULLY THE EFFECT OF THE ABOVE PROVISIONS; (B) LENDER WOULD NOT MAKE THE LOAN WITHOUT THE PROVISIONS OF THIS ARTICLE; (C) THE LOAN IS A COMMERCIAL OR BUSINESS LOAN UNDER THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED, NEGOTIATED BY LENDER AND GRANTOR AND THEIR RESPECTIVE ATTORNEYS AT ARMS LENGTH; AND (D) ALL WAIVERS BY GRANTOR IN THIS ARTICLE HAVE BEEN MADE VOLUNTARILY, INTELLIGENTLY AND KNOWINGLY, AFTER GRANTOR FIRST HAS BEEN INFORMED BY COUNSEL OF GRANTOR'S OWN CHOOSING AS TO POSSIBLE ALTERNATIVE RIGHTS, AND HAVE BEEN MADE AS AN INTENTIONAL RELINQUISHMENT AND ABANDONMENT OF A KNOWN RIGHT AND PRIVILEGE. THE FOREGOING ACKNOWLEDGMENT IS MADE WITH THE INTENT THAT LENDER AND ANY SUBSEQUENT HOLDER OF THE NOTE WILL RELY ON THE ACKNOWLEDGMENT.

ARTICLE X**NOTICES**

Section 10.1 Notices. All notices given hereunder shall be given and deemed received in the manner described in Section 17.1 of the Loan Agreement

Section 10.2 Change in Grantor's Legal Name, Place of Business or State of Formation. Grantor will notify Lender in writing prior to any change in Grantor's legal name, place of business or state of formation, including as a result of, or in connection with, any Transfer, including any Permitted Transfer.

ARTICLE XI**MISCELLANEOUS**

Section 11.1 Applicable Law. This Security Instrument shall be governed and construed in the manner described in Section 18.1 of the Loan Agreement.

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Section 11.2 Usury Limitations. Grantor and the other Borrowers and Lender intend to comply with all Laws with respect to the charging and receiving of interest. Any amounts charged or received by Lender for the use or forbearance of the Principal to the extent permitted by Law, will be amortized and spread throughout the Term until payment in full so that the rate or amount of interest charged or received by Lender on account of Principal does not exceed the Maximum Interest Rate. If any amount charged or received under the Loan Documents that is deemed to be interest is determined to be in excess of the amount permitted to be charged or received at the Maximum Interest Rate, the excess will be deemed to be a prepayment of Principal when paid, without premium, and any portion of the excess not capable of being so applied will be refunded to Grantor and the other Borrowers. If during the Term the Maximum Interest Rate, if any, is eliminated, then for purposes of the Loan, there will be no Maximum Interest Rate.

Section 11.3 Unenforceable Provisions. If any provision in this Security Instrument is found to be illegal or unenforceable or would operate to invalidate any of this Security Instrument, then the provision will be deemed expunged and this Security Instrument will be construed as though the provision was not contained in this Security Instrument and the remainder of this Security Instrument will remain in full force and effect.

Section 11.4 Partial Releases; Extensions; Waivers. Lender may: (i) release any part of the Property or any entity obligated for any of the Obligations; (ii) extend the time for payment or performance of any of the Obligations or otherwise amend the provisions for payment or performance by agreement with any entity that is obligated for the Obligations or that has an interest in the Property; (iii) accept additional security for the payment and performance of the Obligations; and (iv) waive any entity's performance of an Obligation, release any entity or individual now or in the future liable for the performance of the Obligation or waive the exercise of any Remedy or option. Lender may exercise any of the foregoing rights without notice, without regard to the amount of any consideration given, without affecting the priority of the Loan Documents, without releasing any entity not specifically released from its obligations under the Loan Documents, without releasing any guarantor(s) or surety(ies) of any of the Obligations, without effecting a novation of the Loan Documents and, with respect to a waiver, without waiving future performance of the Obligation or exercise of the Remedy waived.

Section 11.5 Entire Agreement. Oral agreements or commitments between or among Grantor and the other Borrowers and Lender to lend money, to extend credit or to forbear from enforcing repayment of a debt, including promises to extend or renew the debt, are not enforceable. Any agreements between or among Grantor and the other Borrowers and Lender relating to the Loan are contained in the Loan Documents, which contain the complete and exclusive statement of the agreements among Grantor and the other Borrowers and Lender, except as Grantor and the other Borrowers and Lender may later agree in writing to amend the Loan Documents. The language of each Loan Document will be construed as a whole according to its fair meaning and will not be construed against the party by or for whom it was drafted.

Section 11.6 No Oral Amendment. The Loan Documents may not be amended, waived or terminated orally or by any act or omission made individually by Grantor or any other

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Borrower or Lender but may be amended, waived or terminated only by a written document signed by the party against which enforcement of the amendment, waiver or termination is sought.

Section 11.7 Covenants Run with the Land. The terms, covenants, conditions and warranties contained in this Security Instrument and the powers granted hereby will run with the Property until the lien hereof is released, will inure to the benefit of and bind all parties hereto and their respective heirs, executors, administrators, successors and assigns, and all lessees, subtenants and assigns of same, and all subsequent owners of the Property, and all subsequent holders of the Loan Documents.

Section 11.8 Subrogation. If the Principal or any other amount advanced by Lender is used directly or indirectly to pay off, discharge or satisfy all or any part of an encumbrance affecting the Property, then Lender is subrogated to the encumbrance and to any security held by the holder of the encumbrance, all of which will continue in full force and effect in favor of Lender as additional security for the Obligations.

Section 11.9 Joint and Several Liability. If Grantor consists of more than one Person, the obligations and liabilities of each such Person under this Security Instrument are joint and several.

Section 11.10 Successors and Assigns. The Loan Documents bind the parties to the Loan Documents and their respective successors, assigns, heirs, administrators, executors, agents and representatives and inure to the benefit of Lender and its successors, assigns, heirs, administrators, executors, agents and representatives.

Section 11.11 Counterparts. Duplicate counterparts of this Security Instrument may be executed and together will constitute a single original document. The parties stipulate that electronic copies of this Security Instrument shall be sufficient for evidentiary purposes.

ARTICLE XII**ADDITIONAL PROVISIONS PERTAINING TO STATE LAWS**

Section 12.1 Conflicts; Interpretation. Notwithstanding anything else contained herein to the contrary, the following provisions of this Article XII shall control.

Section 12.2 Applicability of Illinois Mortgage Foreclosure Law.

(a) It is the intention of Grantor and Lender that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 Illinois Compiled Statutes ("ILCS") 5/15-1101 et seq., and with respect to such Act, Grantor agrees and covenants that:

(i) Lender shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time on or after the date hereof.

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In the event any provision of the Act which is specifically referred to herein may be repealed, Lender shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Lender (including Lender acting as a mortgagee in possession) or a Receiver appointed pursuant to the provisions of Section 7.2 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Lender or in such Receiver under the Act in the absence of said provision, Lender and such Receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Lender which are of the type referred to in Section 5/15 1510 or 5/15 1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated specifically in this Mortgage, shall be added to the indebtedness secured hereby and/or by the judgment of foreclosure.

(ii) Wherever provision is made in this Mortgage or the Loan Documents for Policies to bear mortgage clauses or other loss payable clauses or endorsements in favor of Lender, or to confer authority upon to settle or participate in the settlement of losses under Policies or to hold and disburse or otherwise control the use of Insurance Proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Lender shall continue in the Lender as judgment creditor or mortgagee until confirmation of sale.

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

(iv) Grantor acknowledges that the Property does not constitute agricultural real estate, as said term is defined in Section 15-1201 of the Act or residential real estate as defined in Section 15-1219 of the Act.

(v) Grantor hereby expressly waives any and all rights of reinstatement and redemption, if any, under any order or decree of foreclosure of this Mortgage, on its own behalf and on behalf of each and every person, it being the intent hereof that any and all such rights of reinstatement and redemption of Grantor and of all other persons are and shall be deemed to be hereby waived to the full extent permitted by the provisions of Section 5/15-1601 of the Act or other applicable law or replacement statutes.

(vi) Grantor represents and warrants to Lender that the proceeds of the Debt secured hereby shall be used solely for business purposes and in furtherance of the regular business

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affairs of Grantor and the entire Debt secured by this Mortgage constitutes (i) a “business loan” as that term is defined in, and for all purposes of, 815 ILCS 205/4(1)(c), and (ii) a “loan secured by a mortgage on real estate” within the purview and operation of 815 ILCS 205/4(1).

(vii) As to all of the above-described Encumbered Property which is or hereafter becomes a “fixture” under applicable law, this Mortgage is intended to constitute a fixture filing within the purview of Section 9-402(6) of the Uniform Commercial Code.

(viii) This Mortgage secures the payment of all Obligations secured hereby; provided, however, that the total amount secured by this Mortgage (excluding interest, costs, expenses, charges, fees, protective advances and indemnification obligations, all of any type or nature) shall not exceed an amount equal to two hundred percent (200%) of the face amount of the Note.

(ix) Pursuant to the terms of the Collateral Protection Act, 815 ILCS 180/1 et seq., Grantor is hereby notified that unless Grantor (or another Borrower) provides Lender with evidence of the insurance coverage required by this Mortgage, Lender may purchase insurance at the Borrowers’ expense to protect Lender’s interests in the Property, which insurance may, but need not, protect the interests of Grantor. The coverage purchased by Lender may not pay any claim made by any Borrower or any claim made against any Borrower in connection with the Property. Grantor may later cancel any insurance purchased by Lender, but only after providing Lender with evidence that the Borrowers have obtained the insurance as required hereunder. If Lender purchases insurance, the Borrowers will be responsible for the costs of such insurance, including interest and any other charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the total obligation secured hereby. The costs of such insurance may be greater than the cost of insurance Grantor may be able to obtain for itself.

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EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND IN THE FRACTIONAL NORTHEAST ¼ OF SECTION 34, SOUTH OF THE INDIAN BOUNDARY LINE, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, SAID TRACT OF LAND BEING COMPRISED OF THE FOLLOWING PARCELS:

PARCEL 1:

PART OF THE FRACTIONAL NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12, LYING SOUTH OF THE INDIAN BOUNDARY LINE, DESCRIBED AS FOLLOWS:

THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE FRACTIONAL NORTHEAST 1/4 OF SECTION 34, AFORESAID (EXCEPTING THEREFROM, THE EAST 166.00 FEET THEREOF, AND EXCEPTING THEREFROM THE WEST 30.00 FEET HERETOFORE DEDICATED FOR STREET PURPOSES, AND FURTHER EXCEPTING THAT PART OF THE NORTH 390.00 FEET OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE FRACTIONAL NORTHEAST 1/4, LYING WEST OF THE WEST LINE OF THE EAST 166.00 FEET THEREOF), IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF THE FRACTIONAL NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF THE INDIAN BOUNDARY LINE (EXCEPTING THEREFROM, THE WEST 30.00 FEET AND THE SOUTH 33.00 FEET THEREOF, DEDICATED FOR WEST STREET AND PALMER STREET, RESPECTIVELY), IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THE SOUTHEAST 1/4 OF THE NORTHEAST 1/4 OF THE FRACTIONAL NORTHEAST 1/4 OF SECTION 34, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN LYING SOUTH OF THE INDIAN BOUNDARY LINE (EXCEPTING THEREFROM, THE EAST 33.00 FEET AND THE SOUTH 33.00 FEET THEREOF, DEDICATED FOR LEYDEN AVENUE AND PALMER STREET, RESPECTIVELY), IN COOK COUNTY, ILLINOIS.