

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2115918290 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 06/08/2021 12:26 PM Pg: 1 of 25

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

21012730LP mWA

The property identified as: 1041 PIN: 28-02-305-017-0000

Address:

Street: 3644, 3646, 3648 and 3650 139th Place

Street line 2:

City: Robbins

State: IL

ZIP Code: 60472

Lender: Construction Loan Services II, LLC

Borrower: Scotland Development Corporation

Loan / Mortgage Amount: \$534,821.40

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

Certificate number: 00987B28-2713-4BE4-8289-29CB190478A5

Execution date: 5/26/2021

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Recording Requested By;
After Recording Return to:

Construction Loan Services II, LLC
6th Ave S, Ste 350
Seattle, WA 98108
Attn: Mallory Randazzo

Prepared By: Jennifer Lavoie

Tax Parcel ID Number: 20-02-305-017-0000, 20-02-
305-018-0000, 20-02-305-019-0000, 20-02-305-020-
0000.



Location: Cook County, Illinois

MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT AND FIXTURE FILING
LOAN NO. 72013
Illinois

Notice to Borrower: The Note secured by this Mortgage contains provisions for a variable interest rate.

THIS Mortgage, Assignment of Rents, Security Agreement and Fixture Filing (this "**Mortgage**") is made as of May 19, 2021, by and among:

Mortgagor: SCOTTLAND CONSTRUCTION LLC
403 N. Wabash Ave., Suite 17B
Chicago, IL 60611

Mortgagee: CONSTRUCTION LOAN SERVICES II, LLC
5601 6th Ave S, Ste 350
Seattle, WA 98108

Loan No. 72013

Mortgagor is also referred to herein as "**Borrower**" and Mortgagee as "**Lender**." Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Loan Documents (as such term is defined in Section 1.2.2, below).

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1. GRANT OF SECURITY AND SECURED OBLIGATIONS.

1.1 Grant of Security. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and for the purpose of securing the full and timely payment and performance of the Secured Obligations defined and described in Section 1.2 for the benefit of Lender, Borrower hereby mortgages, grants, bargains, assigns, transfers, sells, warrants and conveys to Lender, its successors and assigns, and grants a security interest in, the following described property, rights, and interests (all or any part of such property, or any interest in all or any part of it, as the context may require, the "**Collateral**"), which Collateral is not used principally or primarily for agricultural or farming purposes, and which property, rights, and interests are hereby pledged primarily and on a parity with the Land (as defined below) and not secondarily:

1.1.1 Land, Appurtenances, Easements. That certain real property and all interests therein located in Cook County, Illinois, more particularly described in EXHIBIT A attached hereto and incorporated herein by this reference, together with all existing and future easements, access rights, appurtenances, privileges, licenses, hereditaments, franchises and tenements, including all water stock and water rights owned by Borrower and all minerals, oil, gas, and other commercially valuable substances that may be in, under or produced from any part of it (collectively, the "**Land**");

1.1.2 Improvements. All buildings, structures, fixtures and improvements now located or later to be constructed on the Land (the "**Improvements**");

1.1.3 Related Real Property and Improvements. All real property and improvements on it, and all appurtenances, permits, plans, licenses, subdivision rights, contracts, contract rights, and other property and interests of any kind or character, including all water and sewer taps belonging to or in any way related to or appurtenant to the Land or Improvements, whether described in EXHIBIT A or not, that may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements;

1.1.4 Leases and Licenses. Subject to the terms of Section 5 hereof, all existing and future leases, subleases, sub-tenancies, licenses, occupancy agreements, and concessions relating to the use and enjoyment of all or any part of the Project (defined below), written or oral, now in existence or hereafter arising, and extensions or renewals thereof, together with the right, power, and authority of Borrower to alter, modify or change the terms thereof or surrender, cancel or terminate the same, and any and all deposits, guaranties and other agreements relating to or made in connection with any of the foregoing (the "**Leases**");

1.1.5 Goods, Materials, Fixtures, etc. All goods, materials, supplies, chattels, furniture, appliances, furnishings, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Project (defined below), whether stored on the Land or elsewhere, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage;

1.1.6 Construction Materials and Equipment. All building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, that have been or later will be acquired for the purpose of being delivered to, incorporated into, or installed in or about the Land or Improvements;

1.1.7 Borrower Funds. All of Borrower's interest in and to the proceeds of the Secured Obligations (defined below), whether disbursed or not; all present and future monetary deposits given by Borrower to any public or private utility with respect to utility services furnished to the Land or Improvements; and any accounts established in connection with the Secured Obligations;

1.1.8 Rent, Issues, and Profits. Subject to the rights of Lender under Section 5 hereof, all income, rents, security or similar deposits, revenues, issues, royalties, profits, leases, earnings, products and proceeds of the Land or Improvements, including, without limitation, all rights to the payment of money, accounts,

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accounts receivable, reserves, deferred payments, refunds, cost savings, insurance or condemnation proceeds, payments and deposits, and any proceeds from the sale of any lots comprising the Land and any residences constructed thereon, and any deposits on account thereof (collectively, the "**Rents, Issues and Profits**");

1.1.9 Contracts and Plans. All contracts of every kind relating to development, construction, marketing, and sale of the Project, including, without limitation, any construction contracts and subcontracts, contracts with architects, engineers, and other service providers, supply contracts, consulting agreements, financing commitments and agreements, joint development agreements, service and maintenance agreements, marketing and listing agreements, lot reservation agreements, and purchase and sale agreements, and any other existing and future contracts of any kind relating to the Project, together with all deposits, escrows, payments, or other proceeds thereunder, as well as all existing and future amendments, modifications, and supplements thereof (collectively, the "**Contracts**"); and all designs, drawings, plans, specifications, trademarks, logos, and other work product prepared or to be prepared in connection with the development, construction, marketing, and sale of the Project (as defined below), together with all existing and future amendments, modifications, and supplements thereof (collectively, the "**Plans**");

1.1.10 Insurance. All insurance policies pertaining to the Collateral or Borrower's operations thereon; together with all proceeds thereof and rights thereto, including: all unearned premiums returnable upon cancellation; all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other Collateral described above into cash or liquidated claims, including proceeds of all present and future fire, hazard or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other Collateral described herein or any part of that Collateral, or breach of warranty in connection with the construction of the Improvements, including causes of action arising in tort, contract, fraud or concealment of a material;

1.1.11 Miscellaneous Personal Property. Any and all personal property of any kind whatsoever, whether tangible or intangible, that is used or will be used in construction of, or is or will be placed upon or is derived from or used in any connection with the use, occupancy or enjoyment of, the Land or Improvements;

1.1.12 Books and Records. All books and records pertaining to any and all of the property described above, including records stored on computer readable media, and a limited sublicense to use the computer hardware or software necessary to access such records ("**Books and Records**");

1.1.13 Additional Property. Any additional personal property otherwise set forth herein or listed on any UCC-1 financing statement filed to perfect Lender's security interest hereunder;

1.1.14 Rights of Declarant. All of Borrower's right, title and interest in and to any and all units, declarant rights, and any other rights relating to the Land or the Improvements, whether now existing or subsequently arising, under any and all covenants, conditions, restrictions, development agreements, laws or other agreements now existing or later enacted relating to the Land and Improvements, including, without limitation, those relating to condominiums; and

1.1.15 Proceeds. All proceeds of, supporting obligations for, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

The Land, Improvements, related real property, and all personal property now or hereafter installed on or used in connection with the Land and/or Improvements are collectively referred to herein as the "**Project**." The Project constitutes the bulk of, but not the entirety of, the Collateral.

1.2 Secured Obligations. Borrower makes the grant, conveyance, transfer and assignment set forth in Section 1.1 and grants the security interest set forth in Section 2.1 for the purpose of securing the following obligations (the "**Secured Obligations**") in any order of priority that Lender may choose:

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1.2.1 Promissory Note. Payment of all obligations at any time owing under that certain Promissory Note payable by Borrower, as maker, to the order of Lender or order, executed concurrently herewith (the "**Note**"), evidencing a loan from Lender to Borrower in the original principal amount of FIVE HUNDRED THIRTY-FOUR THOUSAND EIGHT HUNDRED TWENTY-ONE AND 40/100 DOLLARS (\$534,821.40) (the "**Loan**"), together with interest thereon at a variable rate and any modifications, extensions or renewals thereof, whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes;

1.2.2 Loan Documents. Payment and/or performance of each and every other obligation of Borrower under the Note, this Mortgage, any loan facility agreement executed in conjunction therewith (the "**Loan Agreement**"), all other documents evidencing, securing, or otherwise governing the Loan (specifically excluding, however, for purposes of establishing the Secured Obligations, any obligations arising under any guaranty of the Secured Obligations or any environmental or hazardous substances indemnity agreement related to the Project (each an "**Indemnity Agreement**")), and any and all amendments, modifications, and supplements thereto (collectively, the "**Loan Documents**"), the provisions of which are incorporated herein by this reference;

1.2.3 Related Loans. Payment and/or performance of each covenant and obligation on the part of Borrower or any individual or entity that, directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control, with Borrower, including, without limitation, any general or limited partnership in which Borrower is a partner (collectively, "**Borrower's Affiliates**") to be performed pursuant to any and all loan documents that have been or may be executed by Borrower or Borrower's Affiliates evidencing or securing one or more present or future loans by Lender or its affiliates to Borrower or Borrower's Affiliates (collectively, if any, the "**Related Loans**"), whether now existing or made in the future, together with any and all modifications, extensions and renewals thereof; provided, however, that nothing contained herein shall be construed as imposing an obligation upon Lender, or as evidencing Lender's intention, to make any Related Loan to Borrower or Borrower's Affiliates; and

1.2.4 Modifications and Amendments. Payment and performance of all modifications, amendments, extensions, and renewals, however evidenced, of any of the Secured Obligations.

All persons who may have or acquire an interest in all or any part of the Collateral will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations.

1.3 Unsecured Obligations. Notwithstanding anything to the contrary set forth herein or any of the Loan Documents, this Mortgage shall not secure the following obligations (the "**Unsecured Obligations**"): (a) any obligations evidenced by or arising under an Indemnity Agreement, (b) any other obligations in this Mortgage or in any of the other Loan Documents to the extent that such other obligations relate specifically to the presence on the Land of hazardous substances or materials and are the same or have the same effect as any of the obligations evidenced by or arising under any Indemnity Agreement, and (c) any guaranty of the Secured Obligations. Any breach or default with respect to the Unsecured Obligations shall constitute an Event of Default hereunder, notwithstanding the fact that such Unsecured Obligations are not secured by this Mortgage. Nothing in this Section shall impair or limit Lender's right to obtain a judgment in accordance with applicable law after foreclosure for any deficiency in recovery of all obligations that are secured by this Mortgage following foreclosure.

2. SECURITY AGREEMENT.

2.1 Grant of Security Interest. This Mortgage creates a lien on the Collateral, and constitutes an absolute assignment of the Rents, Issues and Profits and of the Leases, all in favor of Lender, and includes all property now or hereafter affixed or attached to or incorporated upon the Land and Improvements, which, to the fullest extent permitted by law, shall be deemed fixtures and a part of the real property. To the extent that any part of the Collateral or Rents, Issues and Profits and Leases may be, or are determined to be, personal property, Borrower, as debtor, hereby grants to Lender, as secured party, a security interest in such part of the Collateral and Rents, Issues and Profits and Leases as is determined to be personal property, to secure payment and performance of the Secured Obligations. As to such personal property, this Mortgage constitutes a security agreement under the Article 9 of the Uniform Commercial

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Code of the state in which the Project is located (the "State"), with Mortgagor as Debtor and Mortgagee as Secured Party. Terms used to describe the Collateral in Section 1 of this Mortgage shall have the definitions ascribed to such terms under the Uniform Commercial Code of the State.

2.2 Perfection of Security Interest. Borrower hereby authorizes Lender to file one or more financing statements, continuation statements, financing statement amendments, and such other documents as Lender may from time to time require to perfect and continue the perfection of Lender's security interest in any part of the Collateral or the Rents, Issues and Profits and Leases. Borrower shall pay all fees and costs that Lender may incur in filing such documents in public offices as required by law, and in obtaining such record searches as Lender may reasonably require. If any financing statement or other document is filed in the records normally pertaining to personal property, that filing shall not be construed as in any way derogating from or impairing the declaration and the stated intention of the parties hereto that the Collateral and all components thereof are, to the maximum extent possible, real property or otherwise impair the rights or obligations of the parties under this Mortgage.

3. FIXTURE FILING. This Mortgage constitutes a financing statement filed as a fixture filing under the Uniform Commercial Code in effect in the State, as amended or recodified from time to time, covering any part of the Collateral that now is or later may become fixtures attached to the Land or Improvements.

4. ASSIGNMENT OF CONTRACTS AND PLANS.

4.1 Assignment of Contracts and Plans. As security for the Loan, Borrower hereby assigns, transfers, and pledges to Lender all of its right, title and interest in and to the Contracts and Plans identified above.

4.2 Security. This assignment and pledge set forth in this Section is for security purposes only, and is made to secure payment of all amounts and performance of each and every obligation of Borrower under the Loan Documents and under any other instrument executed by Borrower with respect to the Collateral.

4.3 Reliance by Other Parties. The assignment and pledge set forth in this Section shall be conclusive evidence of Lender's rights hereunder and may be relied upon by any architect, engineer, construction contractor or subcontractor, supplier of materials or labor, or other party to any of the Contracts.

4.4 Lender Authorized to Demand Performance. Upon the occurrence of a default under any of the Loan Documents, Borrower hereby authorizes Lender, and for this purpose irrevocably constitutes and appoints Lender as its attorney-in-fact, coupled with an interest, to use the Plans for further development and construction on the Project, to demand, receive, and enforce Borrower's rights under the Contracts, to make payments and give appropriate receipts, releases and satisfactions under such Contracts, and to perform any and all acts with respect to the Contracts or Plans that Lender deems necessary or desirable, all on behalf of and in the name of Borrower, or at Lender's option in Lender's own name, with the same force and effect as if performed by Borrower. Lender may also reassign its rights hereunder to another person designated by Lender, who shall have the same rights to enforce the Contracts and utilize the Plans.

4.5 No Modification or Further Assignment. Without Lender's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Borrower will not: (i) make any amendments or modifications in the Contracts that are materially adverse to Borrower, or (ii) assign, pledge, mortgage, or otherwise transfer or encumber any of its right, title, or interest in any of the Contracts or Plans while any of Borrower's obligations under the Loan Documents remain unfulfilled.

4.6 Lender Not Liable. Lender's acceptance of this assignment of Borrower's rights in the Contracts and Plans does not constitute an assumption by Lender of any obligations whatsoever relating to such Contracts or Plans. Accordingly, Lender shall have no liability to any other party to such Contracts or preparer of such Plans unless or until Lender assumes in writing the obligations relating to such Contracts or Plans. If Lender designates a receiver, contractor, or other party to oversee administration of the Contracts and completion of the development of

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the Project, the obligations under such Contracts or relating to such Plans shall be assumed and performed by such designee, and Lender shall have no liability whatsoever with respect to those obligations.

4.7 Borrower's Representations, Warranties, and Covenants. Borrower represents and warrants to Lender: (i) there have been no prior assignments of Borrower's interest in the Contracts and Plans, and Borrower's assignment to Lender shall be in a first lien position; (ii) Borrower has full power and authority to assign its right, title and interest in the Contracts and Plans to Lender and, with respect to the assignment of each Contract or Plan, either: (a) Borrower has obtained and delivered to Lender a consent to such assignment in a form satisfactory to Lender, or (b) no consents or approvals of any persons or entities under such Contract or Plan are necessary for Borrower to validly sign, deliver and perform this assignment; and (iii) the Contracts constitute valid and binding agreements, enforceable against both Borrower and the other party or parties in accordance with their terms, and neither Borrower nor, to the best of Borrower's knowledge, any other party to such Contracts is in default under the terms of such Contract, except for any defaults already disclosed by Borrower to Lender in writing.

4.8 Default. Lender shall have no right under this Section to enforce Borrower's rights with respect to the Contracts or Plans until Borrower shall be in default under any of its obligations to Lender under any instrument, document or agreement related to the Loan or the Project. Upon the occurrence of any such default, Lender may, without affecting any of its other rights or remedies against Borrower hereunder or under any other instrument, document or agreement, exercise its rights under the assignment and pledge set forth in this Section or in any other manner permitted by law, and in addition Lender shall have and possess, without limitation, any and all rights and remedies of a secured party under the Uniform Commercial Code in effect in the State or as otherwise provided by the laws of such State.

4.9 Indemnity. Borrower will indemnify and hold Lender harmless from and against any and all claims, demands, liabilities, losses, lawsuits, judgments, damages, costs and expenses, including without limitation reasonable attorneys' fees and costs incurred, to which Lender may become exposed or which Lender may incur in exercising any of its rights under Borrower's assignment of the Contracts and Plans.

5. ASSIGNMENT OF RENTS.

5.1 Leasing. Borrower shall not lease the Project or any part thereof unless permitted under the Loan Agreement or by other express written consent of Lender, and then only strictly in accordance with such agreement. Notwithstanding the foregoing, however, any and all Leases at the Project, whether or not entered into with the consent of Lender, shall be subject to the provisions of this Section 5.

5.2 Assignment. Borrower hereby irrevocably, presently, absolutely and unconditionally assigns and transfers to Lender: (i) the Rents, Issues and Profits; (ii) all Leases, and (iii) any and all guarantees of any obligations of any lessee under each of the Leases (a "*Lessee*"). The assignments in this Section are absolute assignments and irrevocable from Borrower to Lender and not merely the passing of security interests or assignments for security only.

5.3 Grant of License. Lender hereby confers upon Borrower a license ("*License*") to collect and retain the Rents, Issues and Profits as they become due and payable, and to administer the Leases, so long as no Event of Default, as defined in Section 7.1, shall exist and be continuing. If an Event of Default has occurred and is continuing, such License shall terminate without notice to or demand upon Borrower, without regard to the adequacy of Lender's security under this Mortgage.

5.4 Collection and Application of Rents, Issues and Profits.

5.4.1 Right to Collect; Attorney in Fact. Subject to the License granted to Borrower under the above Section, Lender has the right, power, and authority to collect any and all Rents, Issues and Profits and administer the Leases. Borrower hereby appoints Lender its attorney-in-fact, coupled with an interest, to, at such times as Lender may choose in its sole discretion: (i) demand, receive and enforce payment of any and all Rents, issues and

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Profits; (ii) give receipts, releases and satisfactions for any and all Rents, Issues and Profits; or (iii) sue either in the name of Borrower and/or in the name of Lender for any and all Rents, Issues and Profits.

5.4.2 Possession of Project not Required. Lender's right to the Rents, Issues and Profits does not depend on whether or not Lender takes possession of the Project as permitted hereunder. If an Event of Default occurs while Lender is in possession of all or part of the Project and is collecting and applying Rents, Issues and Profits as permitted under this Mortgage, Lender and any receiver shall nevertheless be entitled to exercise and invoke every right and remedy afforded any of them under this Mortgage and at law or in equity.

5.5 Enforcement of Leases. Borrower will (i) comply with and observe Borrower's obligations as landlord under all Leases and will do all that is necessary to preserve all Leases in force and free from any right of counterclaim, defense or set off, (ii) enforce the performance of each and every obligation, term, covenant, condition and agreement in the Leases by the tenants to be performed, (iii) notify Lender of the occurrence of any default under any Leases for non-residential use, and (iv) appear in and defend any action or proceeding arising under, occurring out of, or in any manner connected with the Leases or the obligations, duties, or liabilities of Borrower or the tenants thereunder. Without Lender's written consent, Borrower will not collect or accept payment of any Rents from the Collateral more than one (1) month prior to the due dates thereof; will not surrender or terminate any Lease for non-residential use; and will not request or consent to the subordination of any Lease to any lien subordinate to this Mortgage.

5.6 Lender Not Responsible. Under no circumstances shall Lender have any duty to produce Rents, Issues and Profits from the Project. Regardless of whether or not Lender, in person or by agent, takes actual possession of the Project, Lender is not and shall not be deemed to be: (i) a "mortgagee in possession" for any purpose; (ii) responsible for performing any of the obligations of the lessor under any Lease; (iii) responsible for any waste committed by Lessees or any other parties, any dangerous or defective condition of the Project, or any negligence in the management, upkeep, repair or control of the Project; or (iv) liable in any manner for the Project or the use, occupancy, enjoyment or operation of all or any part of it, except for such matters as may arise from the willful misconduct and bad faith of Lender.

6. RIGHTS AND DUTIES OF THE PARTIES

6.1 Performance of Secured Obligations. Borrower shall promptly pay and perform each Secured Obligation in accordance with its terms.

6.2 Representations and Warranties. Borrower represents and warrants that:

6.2.1 Commercial Purposes. The Loan and the other Secured Obligations were obtained by Borrower and will continue to be used for commercial or business purposes, other than agricultural, timber, or grazing purposes, and not for personal, family or household purposes.

6.2.2 Title to Land and Improvements. Borrower holds good and indefeasible fee simple title to all of the Land and Improvements, subject only to such exceptions and encumbrances as have been approved in writing by Lender (the "**Permitted Exceptions**"), and Borrower has or will have good title to all portions of the Collateral other than the Land and Improvements.

6.2.3 Title to Personal Property. Borrower owns any portion of the Collateral that is personal property free and clear of any security agreements, reservations of title, or conditional sales contracts, and there is no financing statement affecting such personal property on file in any public office other than in Lender's favor.

6.2.4 Right to Encumber/Priority. Borrower has the full and unlimited power, right, and authority to encumber the Collateral and assign the Rents, Issues and Profits and Leases. Upon recording of this Mortgage and filing of a UCC Financing Statement with respect to any portion of the Collateral that is determined to be personal property, this Mortgage will create a first and prior lien on and security interest in the Collateral that is subject and subordinate to no other liens except for the Permitted Exceptions.

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6.3 Taxes and Assessments. Borrower shall pay or cause to be paid when due, all general real and personal property taxes, special and supplemental real and personal property taxes and assessments, license fees, license taxes, levies, charges, penalties, or other taxes or similar impositions imposed by any public or quasi-public authority or utility company that are or may become a lien upon the Collateral. Borrower shall also pay when due all real property taxes, assessments, levies and charges imposed by any public authority upon Lender by reason of its interest in the Collateral created hereby. All of the foregoing taxes, assessments and other charges payable by Borrower with respect to the Collateral are collectively referred to as the "**Impositions.**" If requested by Lender, Borrower shall furnish Lender with receipts from the appropriate taxing authority or other proof satisfactory to Lender that all Impositions have been paid on or before the date upon which they become delinquent.

6.4 Liens, Charges and Encumbrances. Borrower shall not encumber or permit the encumbrance of the Collateral without Lender's prior written consent and Borrower shall immediately discharge any lien on the Collateral to which Lender has not consented in writing. Borrower shall pay or cause to be paid when due all obligations secured by or reducible to liens and encumbrances that shall now or hereafter encumber or appear to encumber the Collateral or any part thereof, all claims for work or labor performed, or materials or supplies furnished, in connection with any work upon the Project, whether the lien, charge or encumbrance is or would be senior or subordinate to this Mortgage; provided, however, that Borrower shall not be in default hereunder due to any such lien, charge, or encumbrance that is a Permitted Exception. Lender hereby expressly reserves the right, but shall not be obligated, to advance any and all funds necessary to cure any and all such obligations, and/or claims.

6.5 Required Insurance. Borrower shall maintain insurance coverages in effect with respect to the Collateral in accordance with the insurance requirements of Lender set forth in the Loan Agreement or otherwise provided by Lender to Borrower in writing prior to the closing of the Loan, as such requirements may be updated by from time to time by Lender. Each insurance policy shall be with a company and in a form acceptable to Lender, as determined by Lender in its reasonable discretion, and shall name Lender as an additional insured.

6.6 Insurance and Condemnation Proceeds.

6.6.1 Payment to Lender. Borrower hereby absolutely and irrevocably assigns to Lender, and authorizes the payor to pay to Lender, the following claims, causes of action, awards, payments and rights to payment, together with all interest that may accrue thereon (collectively, the "**Claims**"):

6.6.1.1 Condemnation Awards. All awards of damages and all other compensation payable directly or indirectly because of a condemnation, proposed condemnation, or taking for public or private use that affects all or part of the Collateral or any interest in it;

6.6.1.2 Warranty Claims. All awards, claims, and causes of action arising out of any warranty affecting all or any part of the Collateral, or for damage or injury to or decrease in value of all or part of the Collateral or any interest in it; and

6.6.1.3 Insurance Proceeds. All proceeds of any insurance policies payable because of damage or loss sustained to all or part of the Collateral.

6.6.2 Notice to Lender. Borrower shall immediately notify Lender in writing if: (i) any damage occurs or any injury or loss is sustained to all or part of the Collateral, whether or not covered by insurance or warranty, or any action or proceeding relating to any such damage, injury, or loss is commenced; or (ii) any offer is made, or any action or proceeding is commenced, that relates to any actual or proposed condemnation or taking of all or part of the Collateral.

6.6.3 Pursuit of Claims. Borrower shall pursue recovery of all such Claims and defend its rights under any proceeding for condemnation of the Collateral or any part thereof and prosecute the same with due diligence to its final disposition, and shall cause any awards or settlements to be paid over to Lender for disposition pursuant to the terms of this Mortgage. Lender may, at Lender's option and in Lender's sole discretion, as

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attorney-in-fact for Borrower, make proof of loss and adjust and compromise any Claims, appear in or prosecute any action or proceeding to enforce the Claims, or participate in any action or proceeding relating to condemnation or taking of all or part of the Collateral, and may join Borrower in adjusting any loss covered by insurance. Borrower shall deliver or cause to be delivered to Lender such instruments as may be requested by Lender from time to time to permit Lender to take any such actions.

6.6.4 Application of Proceeds. All proceeds of the Claims that Borrower may receive or be entitled to receive shall be paid to Lender. Lender shall apply any proceeds received by it hereunder first to the payment of the reasonable costs and expenses incurred in the collection of the proceeds. Lender shall then apply the remaining balance of such proceeds (the "**Net Claims Proceeds**"), in its absolute discretion and without regard to the adequacy of its security: (i) to any of the Secured Obligations, notwithstanding the fact that Secured Obligations may not be due according to the terms thereof; (ii) to reimburse Borrower for the costs of reconstructing the Improvements or otherwise repairing or restoring the Collateral; or (iii) to Borrower; provided, however, that if there are no outstanding Events of Default under any of the Loan Documents and Borrower establishes, to Lender's reasonable satisfaction, that Borrower has sufficient funds, including the Net Claims Proceeds, to fully rebuild or repair the Collateral within the remaining term of the Loan and without delaying the completion date of the Project, Lender shall make disbursements of the Net Claims Proceeds for purposes of repair or restoration of the Collateral.

6.6.5 Restoration. If the Net Claims Proceeds are used to reimburse Borrower for the cost of reconstruction, restoration, or repair of the Collateral, the Collateral shall be promptly and diligently restored by Borrower to the equivalent of its condition immediately prior to the casualty or condemnation in accordance with the Plans or to such other condition as Lender may approve in writing, and disbursements of such Net Claims Proceeds shall be in accordance with disbursement procedures acceptable to Lender. If, after applying the Net Claims Proceeds to the Secured Obligations, Lender reasonably determines the remaining security to be inadequate to secure the remaining Secured Obligations, Borrower shall, upon written demand from Lender, repay an amount that will reduce the remaining Secured Obligations to a balance for which adequate security is present.

6.7 Reserves for Taxes and Insurance. If required by Lender after an Event of Default has occurred, Borrower shall deposit with Lender, in monthly installments, an amount equal to one-twelfth of the estimated aggregate annual Impositions and insurance premiums for the Project. In such event, Borrower shall cause all bills, statements, or other documents relating to the Impositions and insurance premiums to be sent or mailed directly to Lender. Upon receipt of such bills, statements, or other documents, and provided Borrower has deposited sufficient funds with Lender pursuant to this Section, Lender shall pay such amounts as may be due thereunder out of the funds so deposited with Lender. If at any time and for any reason the funds deposited with Lender are or will be insufficient to pay such amounts as may then or subsequently be due, Lender shall notify Borrower and Borrower shall immediately deposit an amount equal to such deficiency with Lender. Notwithstanding the foregoing, nothing contained herein shall cause Lender to be deemed a trustee of said funds or to be obligated to pay any amounts in excess of the amount of funds deposited with Lender pursuant to this Section. Lender may commingle said reserve with its own funds and Borrower shall be entitled to no interest thereon.

6.8 Maintenance and Preservation of the Collateral. Borrower covenants: (i) to maintain and preserve the Collateral in good condition and repair and in a prudent businesslike manner; (ii) not to remove, demolish or structurally alter the Collateral or any part thereof, or alter, restore or add to the Collateral, or initiate or allow any change in any zoning or other land use classification that affects the Collateral or any part of it, except with Lender's express prior written consent, and except such alterations as may be required by laws, ordinances, rules, regulations, or orders of governmental authorities or by the terms hereof; (iii) to comply with and not suffer violations of any existing and future subdivision laws, building codes, zoning laws and regulations, and other laws, regulations, ordinances, rules, codes, orders, directives, guidelines, building restrictions and requirements of, and all agreements with and commitments to, all federal, state, county or municipal governmental, judicial or legal authorities or agencies having jurisdiction over the Borrower or the Project, including those pertaining to the construction, sale, lease, or financing of the Improvements, and all recorded covenants and restrictions affecting the Project (the "**Requirements**"); (iv) not to commit or permit any waste to or deterioration of the Collateral; (v) to perform all other acts that from the character or use of the Collateral may be reasonably necessary to maintain and preserve its value; (vi) to perform all obligations required to be performed under the Loan Documents, and all other obligations of Borrower pertaining to the Collateral; and (vii) to execute and, where

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appropriate, acknowledge and deliver such further instruments as Lender may deem necessary or appropriate to preserve, continue, perfect and enjoy the security provided for herein.

6.9 Right of Inspection. Lender, its agents, employees and representatives shall have the right to enter the Project at any reasonable time for the purpose of inspecting the Project and ascertaining Borrower's compliance with the terms hereof, and for such other purposes and in accordance with the terms specified in any of the other Loan Documents.

6.10 Defense and Notice of Actions; Costs. Borrower shall, without liability, cost, or expense to Lender, protect, preserve, and defend Borrower's fee interest in and to the Project and Borrower's interest in the Collateral, the security of this Mortgage, any additional or other security for the Secured Obligations, and the rights or powers of Lender hereunder against all adverse claims. Said protection, preservation, and defense shall include, but not be limited to, protection, preservation and defense against all adverse claimants to and encumbrancers of Borrower's interest in the Collateral, whether or not such claimants or encumbrancers assert an interest paramount to that of Lender. Borrower shall give Lender prompt notice in writing of the filing of any such action or proceeding. Borrower shall pay all costs, fees, and expenses including, without limitation, costs of evidence of title, and reasonable attorneys' fees and costs paid or incurred in any action or proceeding in which Lender may appear or be made a party, whether or not pursued to final judgment, and in any exercise of the power of sale or other remedy contained herein, whether or not such sale is actually consummated or such other remedy is actually prosecuted to completion.

6.11 Permitted Actions of Lender.

6.11.1 Releases, Extensions, Modification, and Additional Security. From time to time, Lender may perform any of the following acts without incurring any liability or giving notice to any person: (i) release any person liable for payment of any Secured Obligation; (ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation; or (iv) alter, substitute, or release all or any portion of the Collateral.

6.11.2 Additional Actions. From time to time Lender may perform any of the following acts without incurring any liability or giving notice to any person and without affecting the personal liability of any person for payment or performance of any of the Secured Obligations: (i) consent to the making of any plat or map of the Project or any part of it; (ii) join in granting any easement or creating any covenant or restriction affecting the Project; (iii) join in any extension, subordination, or other agreement affecting this Mortgage or the lien of it; or (iv) reconvey the Collateral or any part of it without any warranty.

6.12 Partial Reconveyance/Partial Release. Upon Borrower's fulfillment of all of the terms and conditions set forth in the Loan Documents, Lender agrees, at any time upon the written request of Borrower, to execute and deliver a partial reconveyance or partial release releasing from the lien of this Mortgage each of the separate subdivision lots (or condominium units, if applicable) that collectively constitute the Land (each lot or condominium unit to be released is hereinafter referred to as a "**Release Unit**") so long as: (i) there does not exist any uncured default under any of the Loan Documents or any event which, following notice and/or the expiration of any applicable cure period without a cure, would constitute a default thereunder; (ii) the Release Unit and the real property remaining subject to the Mortgage shall each constitute legal and separately conveyable parcels with reasonable and adequate access to public streets and utilities, in accordance with the Plans; (iii) Lender receives the required release payment established in the Loan Documents (the "**Release Payment**") and all other amounts it is entitled to receive thereunder; and (iv) all other conditions to such release as provided in the Loan Documents are satisfied. Except as specifically provided in the Loan Documents, Lender shall not be obligated to reconvey or release the lien of the Mortgage, in whole or in part, until it has received payment in full of all amounts due Lender under any of the Loan Documents. Lender's acceptance of any payment or issuance of a partial reconveyance or partial release shall not affect Borrower's obligation to repay all amounts that remain owing under the Loan Documents or the security of this Mortgage regarding any Collateral that is not reconveyed or released. If Lender does not require satisfaction of all of the conditions set forth in the Loan Agreement before releasing one or more Release Units, that alone shall not be a waiver of such conditions, and Lender reserves the right to require their satisfaction in full before releasing any further Release Units from this Mortgage.

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6.13 Release Upon Payment and Discharge of Mortgagor's Obligations. The Lender shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all amounts due to Lender under the Loan Documents, including payment of all reasonable expenses, attorneys' fees and costs, incurred by the Lender in connection with the execution of such release.

6.14 Late Charge. If Borrower commits an Event of Default in the payment of an amount due and payable under this Mortgage, a late charge as specified in and measured by the Note may be charged by Lender for the purpose of defraying the extra administrative expenses incident to handling such delinquent payment and the loss of the use of funds resulting from Borrower's non-payment when due. Such late charge shall be paid without prejudice to the rights of the holder of the Note to collect any other amounts provided to be paid thereunder.

6.15 Subrogation. Lender shall be subrogated to the liens of all encumbrances, whether released of record or not, that are discharged in whole or in part by Lender in accordance with this Mortgage or with the proceeds of the Loan.

6.16 Notice of Change. Borrower shall give Lender prior written notice of any change in: (i) the location of its place of business or its chief executive office if it has more than one place of business; (ii) the location of any of the Collateral, including the Books and Records; and (iii) Borrower's name or business structure. Unless approved by Lender in writing, all Collateral that consists of personal property (other than the Books and Records) will be located at the Project and all Books and Records will be located at Borrower's place of business, or chief executive office if Borrower has more than one place of business.

7. DEFAULTS AND REMEDIES.

7.1 Events of Default. The occurrence of any one or more of the following shall constitute an "Event of Default":

7.1.1 Payment Default. Failure to make any payment or to perform an obligation to pay money that arises under the Note or any of the other Loan Documents; subject to any applicable grace period;

7.1.2 Default Under Loan Documents. An Event of Default occurs as defined under the Loan Agreement or any other Loan Document;

7.1.3 Default Under Related Loan Documents. An Event of Default occurs as defined in and arising under any document evidencing, securing, or otherwise governing any Related Loan (collectively, if any, the "Related Loan Documents");

7.1.4 Construction Defaults. Any of the following relating to construction of the Project: (i) the filing of any mechanic's lien, materialmen's lien or any other lien as allowed by law, or any stop notice with respect to the Project that is not bonded against or released upon Borrower's discovery thereof and within thirty (30) business days after filing; (ii) any material failure in the construction and completion of the Improvements to comply with: (a) the Plans; (b) all Building Laws (as defined below), or (c) the terms of this Mortgage or the Loan Agreement, if such failure is not cured within thirty (30) days after notice thereof by Lender, or, if such cure cannot be accomplished within such 30-day period through the exercise of diligence, the failure by Borrower to promptly commence the required cure and thereafter to continue the cure with due diligence until such default is totally cured, which must in any event occur within ninety (90) days after such default; or (iii) Borrower's failure to proceed with work on the Improvements in a diligent and workmanlike manner if such failure is not cured within fifteen (15) days after written notice thereof by Lender. As used herein, "**Building Laws**" means the Fair Housing Act of 1968 as amended, the Americans With Disabilities Act of 1990 as amended, all government and private covenants, conditions, and restrictions relating to the Land, building code requirements, ordinances and laws affecting the construction of improvements on the Land, and all other federal, state and local laws, ordinances, regulations and rules relating to the construction, operation, and maintenance of the improvements on the Land and the marketing and use of such improvements in a non-discriminatory manner.

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7.1.5 Unauthorized Transfer. A transfer, purported transfer, or change of ownership or control of Borrower or any guarantor in violation of Section 8.

7.1.6 Security Impaired. There is an uninsured casualty with respect to any material portion of the Collateral and Borrower fails to immediately repair such damage, Borrower fails to satisfy the conditions set forth in the Mortgage for the release of insurance proceeds or any condemnation award, or, whether or not Lender has received and applied insurance proceeds or any condemnation award to the Secured Obligations in accordance with the Mortgage, Lender reasonably determines that its security is impaired by such casualty or condemnation and Borrower fails to immediately deposit into the Restricted Account (as defined in the Loan Agreement) an amount determined by Lender as necessary to restore such security.

7.2 Rights and Remedies. At any time after the occurrence of an Event of Default hereunder, Lender shall have all of the rights and remedies described below, in addition to any other rights and remedies of Lender under the Loan Agreement, the other Loan Documents, or the Related Loan Documents. To the fullest extent permitted by law, all of such rights and remedies shall be cumulative and the exercise of any one or more of them shall not constitute an election of remedies:

7.2.1 Receiver. If an Event of Default shall have occurred and be continuing, Lender may, as a matter of right and without regard to the then-current value of the Collateral or the interest of Borrower therein or the sufficiency of the security for repayment and performance of the Secured Obligations, upon ex parte application and without notice to Borrower or anyone claiming under Borrower, and without any showing of insolvency, fraud or mismanagement on the part of Borrower, and without the necessity of filing any judicial or other proceeding other than the proceeding for appointment of a receiver, apply to any court having jurisdiction to appoint a receiver or receivers for the Collateral or any portion thereof, and of the Rents, Issues and Profits, and Borrower hereby irrevocably consents to the appointment of a receiver or receivers upon such Event of Default. Any such receiver shall have the usual powers and duties of receivers in like or similar cases and all the powers and duties of Lender set forth in this Mortgage or any of the other Loan Documents. Employment by Lender shall not disqualify a person from serving as receiver.

7.2.2 Cure; Protection of Security. With or without notice, and without releasing Borrower from any obligation hereunder, Lender may (but shall not be obligated to) cure any breach or default of Borrower and, if it chooses to do so in its sole discretion, make such advances and do any and all other things that it may in its sole discretion consider necessary and appropriate to protect its Collateral and the security of this Mortgage. In addition to and without limitation of the foregoing, if Borrower has failed to keep or perform any covenant whatsoever contained in this Mortgage or the other Loan Documents, Lender may, but shall not be obligated to any person to do so, perform or attempt to perform said covenant, and any payment made or expense incurred in the performance or attempted performance of any such covenant shall be and become a part of the Secured Obligations, and Borrower promises, upon demand, to pay to Lender, at the place where the Note is payable, all sums so advanced or paid by Lender, with interest from the date when paid or incurred by Lender at the default rate of interest provided in the Note. No such payment by Lender shall constitute a waiver of any Event of Default. In addition to the liens and security interests hereof, Lender shall be subrogated to all rights, titles, liens, and security interests securing the payment of any debt, claim, tax, or assessment for the payment of which Lender may make an advance, or which Lender may pay.

7.2.3 Entry. Lender, in person, by agent, or by court-appointed receiver, with or without bringing any action or proceeding, may terminate Borrower's right and license to collect the Rents, Issues and Profits and to administer the Leases, and enter, take possession of, complete construction on, manage and operate, and lease or sell, all or any part of the Collateral, and may also do any and all other things in connection with those actions that Lender may in its sole discretion consider necessary or appropriate to protect the security of this Mortgage or that are otherwise permitted to be taken or conducted by Lender under the Loan Agreement. If Lender so requests, Borrower shall assemble any Collateral that has been removed from the Project and make all of it available to Lender at the Project site. The entering upon and taking possession of the Project, the collection of the Rents, Issues and Profits and the application thereof as aforesaid, or any of such acts, shall not cure or waive any default or notice of default hereunder or invalidate any other right or remedy that Lender may have in response to such default or pursuant to such notice and, notwithstanding the continued possession of the Project or the collection, receipt, and application of the Rents, Issues

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and Profits by Lender, or Lender's receiver or agent, Lender shall be entitled to exercise every right provided for in any of the Loan Documents or by law upon the occurrence of any Event of Default.

7.2.4 Uniform Commercial Code Remedies. With respect to all or any part of the Collateral that constitutes personal property, Lender shall have all of, and may exercise any or all of, the rights and remedies of a secured party under the Uniform Commercial Code in effect in the State.

7.2.5 Judicial Action. Lender may commence and maintain an action or actions, at law or in equity, in any court of competent jurisdiction, to enforce the payment and/or performance of the Secured Obligations (including, without limitation, to obtain specific enforcement of the covenants of Borrower hereunder, and Borrower agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy), to foreclose the liens and security interests of this Mortgage as against all or any part of the Collateral, and to have all or any part of the Collateral sold under the judgment or decree of a court of competent jurisdiction. Borrower hereby waives the defense of laches and any applicable statute of limitations. If this Mortgage is foreclosed by judicial action, and the Collateral sold at a foreclosure sale, the purchaser may, during any redemption period allowed, make such repairs or alterations on the Land as may be reasonably necessary for the proper operation, care, preservation, protection and insuring thereof. Any sums so paid together with interest thereon from the time of such expenditure at the lesser of the default rate under the Note, or the maximum rate permitted by law, shall be added to and become a part of the amount required to be paid for redemption from such sale. In addition, Lender will be entitled to a judgment providing that, if the foreclosure sale proceeds are insufficient to satisfy the judgment, execution may issue for the deficiency.

7.2.6 Realization on Security. Lender may resort to and realize upon or waive the security hereunder and any other security now or hereafter held by Lender in such order and manner as Lender may, in their sole discretion, determine; which resort to such security may be taken concurrently or successively and in one or several consolidated or independent judicial actions.

7.2.7 Releases, Extensions, Modification and Additional Security. Without affecting the liability of any person for payment of any of the Secured Obligations, Lender may make any agreement or take any action extending the maturity or otherwise altering the terms or increasing the amount of any of the Secured Obligations, and accept additional security or release all or a portion of the Collateral and/or other security for the Secured Obligations.

7.2.8 Acceleration Not Required. Lender may take any of the actions permitted under Sections 7.2.1 through 7.2.3 regardless of the adequacy of the security for the Secured Obligations, or whether any or all of the Secured Obligations have been declared to be immediately due and payable, or whether notice of default and election to sell has been given under this Mortgage.

7.2.9 Other Remedies. In addition to the foregoing, upon the occurrence of an Event of Default, Lender shall have and may exercise any and all other rights and remedies available to them at law or in equity. The exercise or failure to exercise any right or remedy available to Lender shall in no event be deemed or construed to be a waiver or release of any rights or remedies of Lender under the Loan Documents or the Related Loan Documents, or at law or in equity.

7.3 Payment of Costs, Expenses, and Attorneys' Fees. All costs and expenses reasonably incurred by Lender in enforcing the remedies available to them hereunder or otherwise protecting the Collateral or other rights or interests of Lender (including, without limitation, court costs and reasonable attorneys' fees, whether incurred in litigation or not, expenses for evidence of title, appraisals and surveys, and costs and fees relating to any bankruptcy, reorganization, or insolvency proceeding; including efforts to modify, vacate, or obtain relief from any automatic stay) shall constitute an additional obligation of Borrower to Lender (collectively, "**Costs and Expenses**"). Borrower shall immediately reimburse Lender for all Costs and Expenses that Lender may incur by reason of, or arising out of, or in connection with: (i) any Default; (ii) any action or proceeding in which Lender may appear or commence to protect,

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preserve, exercise or enforce their rights, remedies or security interests under this Mortgage, or under any document or instrument evidencing the Secured Obligations secured by this Mortgage, or which otherwise relates to the Project, including all appeals therefrom; (iii) the performance of any act authorized or permitted hereunder; and (iv) the exercise of any other rights or remedies under this Mortgage, or under any document or instrument evidencing the Secured Obligations secured by this Mortgage, or otherwise relating to the protection of Lender's rights and interest hereunder or under any document or instrument evidencing the Secured Obligations secured hereby, whether or not a suit or proceeding is instituted. Such Costs and Expenses shall include without limitation the fees, charges and expenses of attorneys, engineers, accountants, appraisers, expert witnesses, consultants and other professional assistants and advisors, costs and expenses of searching records, examining title and determining rights in, title to, or the value of, the Project, or the boundaries thereof, including but not limited to title company charges, title insurance premiums, survey costs, publication costs, and other charges incident thereto, all whether or not a suit or proceeding is instituted. Borrower agrees to and shall pay, immediately and without demand, all sums so expended by Lender, together with interest from the date of expenditure, at the highest legal interest rate then payable under the Loan Documents, all of which sums plus interest shall constitute additional Secured Obligations secured by this Mortgage.

7.4 Remedies Not Exclusive. Lender shall be entitled to enforce the payment and performance of any Secured Obligations and to exercise any and all rights, powers, and remedies under this Mortgage, any other Loan Document, or any Related Loan Document, notwithstanding the fact that some or all of the Secured Obligations may now or hereafter be otherwise secured. Lender shall be entitled to enforce all such rights concurrently or separately, in such order and manner as they or either of them may in their absolute discretion determine. No remedy is intended to be exclusive of any other remedy, but each shall be cumulative and in addition to the others, to the fullest extent permitted by law.

7.5 Miscellaneous.

7.5.1 Lender may release, regardless of consideration, any part of the Collateral without, as to the remainder, in any way impairing, affecting, subordinating, or releasing the lien or security interests evidenced by this Mortgage or the other Loan Documents or affecting the obligations of Borrower or any other party to pay and perform the Secured Obligations. For payment of the Secured Obligations, Lender may resort to any of the collateral therefor in such order and manner as Lender may elect. No collateral heretofore, herewith, or hereafter taken by Lender shall in any manner impair or affect the collateral given pursuant to the Loan Documents, and all collateral shall be taken, considered, and held as cumulative.

7.5.2 Borrower hereby irrevocably and unconditionally waives and releases: (i) all benefits that might accrue to Borrower by virtue of any present or future law exempting the Collateral from attachment, levy or sale on execution or providing for any appraisal, valuation, stay of execution, exemption from civil process, redemption, or extension of time for payment; (ii) notices of any Event of Default or of the exercise of any right, remedy, or recourse not explicitly required under the Loan Documents; and (iii) any right to a marshaling of assets or a sale in inverse order of alienation.

8. ASSIGNMENT.

8.1 No Assignment or Encumbrance Without Lender's Consent. Borrower acknowledges and agrees that the Secured Obligations are personal to Borrower and that the identity of Borrower and its partners and employees, and of any guarantors; the relationship between Borrower, each guarantor, and Lender; and the creditworthiness, business expertise, financial condition, and continued control of the Collateral of Borrower and each guarantor were material inducements upon which Lender relied in arranging the Secured Obligations. Accordingly, neither Borrower nor any guarantor shall, without Lender's prior written consent or as otherwise expressly permitted under this Mortgage or the Loan Agreement: (i) sell, convey, assign, encumber, or otherwise transfer any of its right, title, or interest in and to the Collateral or any other Project asset, whether such transfer or encumbrance is voluntary or by operation of law, other than as specifically permitted under the Loan Documents, (ii) sell, assign, or transfer its interest as borrower under the Secured Obligations, or (iii) transfer any stock or other ownership interest that would cause a material change in the control of Borrower or any guarantor. Any attempted assignment without such prior written

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consent shall be null and void, and of no effect, and shall also constitute, at Lender's option, an Event of Default by Borrower under this Mortgage and each of the other Loan Documents.

8.2 Conditions to Approval of Assignment. As a condition of approving any assignment, Lender may impose such requirements and conditions as it determines are appropriate in its sole discretion, including but not limited to the requirement that Borrower and the assuming party pay, in advance, any and all reasonable costs and expenses, including reasonable attorney's and accountant's fees, incurred by the Lender in connection therewith. No approval of any assignment shall cause a release of Borrower from any liability under the Loan Documents without Lender's prior written consent, which consent may be withheld in Lender's sole discretion.

8.3 Loan Due upon Prohibited Transfer or Encumbrance. Upon any transfer, assignment, or encumbrance, as described in above for which Lender's written approval is required but has not been obtained, the entire outstanding balance owing under the Note, including principal, accrued interest, and any other amounts owing under the Loan Documents shall become due and payable at Lender's option, without any requirement for notice or demand, and Lender may pursue any remedies granted to it under this Mortgage or any of the other Loan Documents.

8.4 Assignment and Participation by Lender. Lender shall have the right, at any time and from time to time and upon notice to Borrower, to assign or sell the Secured Obligations, and/or any one or more participations in the Secured Obligations, or to include such obligations in a securitized pool of indebtedness, accompanied by an assignment and/or delegation of any or all related rights or obligations of Lender under the Loan Documents, without the need for any form of consent from Borrower.

9. RIGHTS WITH RESPECT TO CC&RS AND HOMEOWNERS ASSOCIATIONS.

9.1 Rights under CC&Rs This Mortgage and Lender's security interest hereunder shall extend to all of Borrower's right, title and interest in and to any and all development rights, declarant rights and any other rights of Borrower in the Project now existing or subsequently arising under any covenants, conditions, and restrictions governing the Project, as the same may be amended from time to time with Lender's written consent (collectively, "CC&Rs")

9.2 Representations and Warranties. Borrower hereby represents, warrants and agrees:

9.2.1 Not to file, record or amend any CC&Rs or plat in connection with the Project without the prior written consent of Lender, which consent Lender shall not unreasonably withhold;

9.2.2 Not to adopt, file, or amend any documents establishing or governing any condominiums, homeowners, or common interest community association for the Project (each an "**Association**") or architectural control or similar design control committee for the project (each an "**ACC**"), including, but not limited to, articles of incorporation or bylaws of any Association, design guidelines, or rules and regulations governing activities within the subdivision (collectively, and together with the CC&Rs and any subdivision plat for the Project, as any such document may be amended from time to time, the "**Governing Documents**"), without the prior written consent of Lender, which consent Lender shall not unreasonably withhold;

9.2.3 To satisfy all obligations of, to make all payments due from, and to observe and perform all terms and conditions to be performed by, Borrower as an owner, developer or declarant of the Project under the Governing Documents and applicable law;

9.2.4 To prepare and file such annual reports and other documents as may be necessary to maintain entity registration of any Association controlled by Borrower or an affiliate of Borrower, in the state where the Project is located;

9.2.5 During any period of Borrower's declarant control, to cause the Association's officers and directors appointed by Borrower to comply with the Governing Documents and applicable law; and

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9.2.6 To pay all charges, including all common expense and limited common expense liabilities and assessments (special or general), insurance, taxes and other items Borrower is or may later be responsible for paying under the Governing Documents and under applicable law.

9.3 **Proxy.** During an Event of Default, at Lender's election, Borrower shall pledge to Lender its vote(s) and constitute Lender as Borrower's proxy (which appointment is coupled with an interest) with sole right to cast its vote(s) on all actions of any nature whatsoever submitted to a vote of the members of any Association or ACC.

9.4 **Notices, etc.** Borrower will provide, upon request of Lender, true and correct copies of:

9.4.1 any notices to the members of any Association, including, but not limited to, any notices of any meetings of any Association;

9.4.2 minutes of any such meetings;

9.4.3 any statement of financial condition of any Association, including any budgets or proposed budgets as available to any owner;

9.4.4 any statement showing allocation of expenses and assessments issued to Borrower;

9.4.5 any notice of default issued to Borrower; and

9.4.6 any amendment or proposed amendment to any of the Governing Documents.

9.5 **Payment of Common Expenses.** Unless prohibited by law, Lender, either prior to, contemporaneously with, or subsequent to the foreclosure of this Mortgage, or while pending the expiration of any applicable redemption period subsequent to a judicial foreclosure and sale upon execution of the Project, may pay common expenses for which Lender may be liable, and subsequent to such payments Lender shall have a lien without merger on the Project for the amount paid of the same priority as the lien of this Mortgage, or if subsequent to sale or execution, said lien shall be prior to any lien held by any redemptioner as defined by law. In the event Lender is the successful bidder at any sale upon execution subsequent to a judicial foreclosure and obtains possessory rights to the Collateral subject to redemption by the judgment debtor or redemption as defined by law, any payments made by the Lender or its successor in interest to satisfy condominium assessments levied and payable during the redemption period shall, in the event of any redemption, be recoverable by the Lender from the judgment debtor or its successors in interest, or any redemptioner in the same manner as any other assessment or tax would be recoverable.

9.6 **Required Consent of Lender.** Borrower shall not, except after notice of Lender's prior written consent:

9.6.1 subdivide the Land or the Project; or

9.6.2 consent to any material amendment to any of the Governing Documents, including, but not limited to, any amendment that would change the voting rights or the fraction or percentage of allocated interests of the lot owners in the subdivision.

10. MISCELLANEOUS PROVISIONS.

10.1 **Additional Provisions.** The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The Loan Documents also grant further rights to Lender and contain further agreements and affirmative and negative covenants by Borrower that apply to this Mortgage and to the Collateral.

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10.2 Additional Security. If Lender at any time holds additional security for any of the Secured Obligations, all such security shall be taken, considered, and held as cumulative, and Lender may enforce the sale thereof or otherwise realize upon the same, at its option, either before or concurrently with the exercise of any of its rights or remedies hereunder or after a sale is made hereunder. The taking of additional security, the execution of partial releases of the security, or any extension of the time of payment of the Secured Obligations shall not diminish the force, effect, or lien of this Mortgage and shall not affect or impair the liability of any maker, surety, or endorser for the payment of any such indebtedness.

10.3 Cooperation. Borrower shall, upon request, cooperate with Lender to correct any defect, error or omission that may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof, and will execute, acknowledge, and deliver such further instruments and take such further actions as may be reasonably requested by Lender to carry out more effectively the purposes of this Mortgage.

10.4 Permitted Contests. Borrower may contest or object in good faith to the amount or validity of any tax, assessment, claim, demand, levy, lien, encumbrance, charge or notice of noncompliance asserted by a third party (collectively, a "Third-Party Claim"), but only in accordance with the following conditions: (i) Borrower shall first give written notice to Lender and deposit with Lender a bond or other security satisfactory to Lender in such amount as Lender shall reasonably require, up to 150% of the amount of the Third-Party Claim or other sum in controversy, and shall have demonstrated to Lender's reasonable satisfaction that no portion of the Collateral will be sold to satisfy the Third-Party Claim prior to final resolution; (ii) Borrower shall promptly and diligently proceed to cause the Third-Party Claim to be settled and discharged in a manner not prejudicial to Lender or its rights hereunder; (iii) if Borrower shall fail to proceed diligently to discharge the Third-Party Claim, then, in addition to any other right or remedy of Lender, Lender may, but shall not be obligated to, discharge the same, by paying the amount claimed to be due, or by depositing in court a bond or the amount claimed or otherwise giving security for such Third-Party Claim, or in such manner as is or may be prescribed by law, at Borrower's expense; (iv) Lender may employ an attorney or attorneys to protect its rights hereunder, and in such event, Borrower shall pay Lender the reasonable attorneys' fees and costs and expenses incurred by Lender, whether or not an action is actually commenced against Borrower by reason of any default hereunder; and (v) Borrower shall have provided such good and sufficient undertaking as may be required or permitted by law to accomplish a stay of any legal proceedings then pending in connection with such Third-Party Claim.

10.5 No Offset. Borrower's obligation to timely pay and perform all obligations under the Note, this Mortgage, and the other Loan Documents shall be absolute and unconditional and shall not be affected by any event or circumstance, including without limitation any setoff, counterclaim, abatement, suspension, recoupment, deduction, defense or any other right that Borrower or any guarantor may have or claim against Lender or any other person or entity. The foregoing shall not constitute a waiver of any claim or demand which Borrower or any guarantor may have in damages or otherwise against Lender or any other person or entity; provided that borrower shall maintain a separate action thereon.

10.6 Obligations of Borrower, Joint and Several. If more than one person has executed this Mortgage as Borrower, the obligations of all such persons hereunder shall be joint and several.

10.7 Partial Invalidity. If any term of this Mortgage, or the application thereof to any person or circumstances, shall, to any extent, be invalid, void or unenforceable, the remainder of this Mortgage, or the application of such term to persons or circumstances other than those as to which it is invalid, void or unenforceable, shall not be affected thereby, and each term of this Mortgage shall be valid and enforceable to the fullest extent permitted by law. If the lien of this Mortgage is invalid, void or unenforceable as to any part of the Secured Obligations, or if the lien is invalid, void or unenforceable as to any part of the Collateral, the unsecured or partially secured portion of such indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of such Secured Obligations, and all payments made on such Secured Obligations shall be considered to have been first paid on and applied to the full payment of that portion of such indebtedness that is not secured or fully secured by the lien of this Mortgage.

10.8 No Waiver or Cure. No waiver or delay or omission in the exercise or enforcement by Lender of any of its rights or remedies hereunder or under any of the other Loan Documents shall be considered a waiver

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of any subsequent application of, or right to enforce, such right or remedy, or of the right to enforce any other right or remedy of Lender in another instance. Furthermore, no waiver of Lender's rights or remedies in one or more instances shall establish a course of dealing or other agreement that will bind Lender or prohibit Lender from enforcing the terms of this Mortgage or any other Loan Document in another instance.

10.9 Limitation on Interest. Borrower agrees to an effective rate of interest that is the rate provided for in the Note, plus any additional rate of interest resulting from any other charges in the nature of interest paid or to be paid by or on behalf of Borrower, or any benefit received or to be received by Lender, in connection with the Secured Obligations. The interest, fees and charges under the Loan Documents shall not exceed the maximum amounts permitted by any applicable law. If any such interest, fee or charge exceeds the maximum, the interest, fee or charge shall be reduced by the excess and any excess amounts already collected from Borrower shall be refunded. At Borrower's election, Lender may refund such excess either by treating the excess as a prepayment of principal under the Note or by making a direct payment to Borrower. The provisions of this paragraph shall control over any inconsistent provision in the Loan Documents.

10.10 Accommodations to Successors. The liability of the original Borrower shall not be released or changed if Lender grants any successor in interest to Borrower any extension of time for payment, or modification of the terms of payment, of any Secured Obligation. Lender shall not be required to comply with any demand by the original Borrower that Lender refuse to grant such an extension or modification to, or commence proceedings against, any such successor in interest.

10.11 Amendments. References to the Note, the Loan Agreement, the Loan Documents and the Related Loan Documents in this document shall be deemed to include all modifications, extensions, and renewals thereof. This Mortgage cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

10.12 Successors in Interest. Subject to the limitations on transfer contained in the Loan Documents, including, without limitation, Section 8 hereof, the terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, legatees, devisees, administrators, executors, successors and assigns of the parties hereto.

10.13 Applicable Law. The provisions of this Mortgage shall be governed by and construed in accordance with the laws of the State, without regard to the choice of law rules of the State and except to the extent that federal laws preempt the laws of the State.

10.14 Merger. No merger shall occur as a result of Lender's acquiring any other estate in or any other lien on the Collateral unless Lender consents to a merger in writing.

10.15 Notice. All notices required or permitted under the Loan Documents shall be in writing, effective upon delivery, and shall be: (i) delivered in person, (ii) sent by recognized courier or overnight delivery service, or (iii) sent by certified mail, postage prepaid, with return receipt requested, (such mailing to be deemed received on the sooner of actual receipt or three (3) days after mailing) to the appropriate party at its address set forth above. Any party may designate in writing different mailing addresses or persons to which or to whom such notices or demands are thereafter to be addressed, but such change of address or change of party to be addressed notices shall be effective only upon actual receipt.

10.16 Waiver of Marshaling. Borrower waives all rights, legal and equitable, it may now or hereafter have to require marshaling of assets or to require upon foreclosure sales of assets in a particular order. Each successor and assign of Borrower, including any holder of a lien subordinate to this Mortgage, by acceptance of its interest or lien agrees that it shall be bound by the above waiver, as if it had given the waiver itself.

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10.17 State-Specific Provisions.

10.17.1 Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Section 10.17 and the other terms and conditions of this Mortgage, the terms and conditions of this Section 10.17 will control and be binding.

10.17.2 Illinois Mortgage Foreclosure. It is the express intention of Mortgagor and Mortgagee that the rights, remedies, powers and authorities conferred upon the Mortgagee pursuant to this Mortgage shall include all rights, remedies, powers and authorities that a mortgagor may confer upon a mortgagee under the Illinois Mortgage Foreclosure Law (735 ILCS § 5/15-1101 et seq.) (hereinafter, as amended from time to time, referred to as the "IMFL") and/or as otherwise permitted by applicable law, as if they were expressly provided for herein. In the event that any provision in this Mortgage shall be inconsistent with any provision in the IMFL, the provisions of the IMFL 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 IMFL.

(a) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under Sections 5/15-1510 and 5/15-1512 of the IMFL, whether incurred before or after any decree or judgment of foreclosure, and whether provided for in this Mortgage, shall be added to the indebtedness secured by this Mortgage ("Debt") or by the judgment of foreclosure.

(b) The powers, authorities and duties conferred upon the Mortgagee, in the event that the Mortgagee takes possession of the Project, and upon a receiver hereunder, shall also include all such powers, authority and duties as may be conferred upon a "mortgage-in-possession" or receiver under and pursuant to the IMFL. To the extent the IMFL may limit the powers, authorities and duties purportedly conferred hereby, such power, authorities and duties shall include those allowed, and be limited as proscribed by the IMFL at the time of their exercise or discharge.

(c) Mortgagor knowingly and voluntarily waives, on behalf of itself and all persons or entities now or hereafter interested in the Project, to the fullest extent permitted by applicable law including the IMFL, (i) all rights under all appraisement, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshaling statutes, laws or equities now or hereafter existing, (ii) any and all requirements that at any time any action may be taken against any other person or entity and Mortgagor agrees that no defense based on any thereof will be asserted in any action enforcing this Mortgage, and (iii) any and all rights to reinstatement and redemption as allowed under Section 15-1601(b) of the IMFL or to cure any defaults, except such rights of reinstatement and cure as may be expressly provided by the terms of this Mortgage.

(d) MORTGAGOR HEREBY KNOWINGLY AND VOLUNTARILY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS OF REDEMPTION FROM SALE OR OTHERWISE UNDER ANY ORDER OR DECREE OF FORECLOSURE, DISCLAIMS ANY STATUS WHICH IT MAY HAVE AS AN "OWNER OF REDEMPTION" AS THAT TERM MAY BE DEFINED IN SECTION 15-1212 OF THE IMFL, PURSUANT TO RIGHTS HEREIN GRANTED, ON BEHALF OF MORTGAGOR AND ALL PERSONS BENEFICIALLY INTERESTED THEREIN, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN, OR TITLE TO, THE PROJECT DESCRIBED HEREIN SUBSEQUENT TO THE DATE OF THIS SECURITY INSTRUMENT, AND ON BEHALF OF ALL OTHER PERSONS TO THE FULLEST EXTENT PERMITTED BY THE PROVISIONS OF THE ILLINOIS STATUTES.

(e) In addition to any provision of this Mortgage or the other Loan Documents authorizing Mortgagee to take or be placed in possession of the Project, or for the appointment of a receiver of the Project, Mortgagee shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the IMFL, to be placed in possession of the Project or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Instrument, all powers, immunities and duties as provided for in Sections 5/15-1701, 5/15-1703 and 5/15-1704 of the IMFL.

10.17.3 Protective Advances. All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior

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to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the IMFL (hereinafter collectively referred to as "Protective Advances"), shall have the benefit of all applicable provisions of the IMFL, including those provisions of the IMFL hereinbelow referred to:

(a) all advances by Mortgagee in accordance with the terms of this Mortgage to: (i) preserve or maintain, repair, restore or rebuild the improvements upon the Project; (ii) preserve the lien of this Mortgage or the priority hereof; or (iii) enforce this Mortgage, each as referred to in Subsection (b)(5) of Section 5/15-1302 of the IMFL;

(b) payments by Mortgagee of: (i) when due, installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Project or any part thereof; (iii) other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the IMFL;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Sections 1504(d)(2) and 5/15-1510 of the IMFL; (ii) in connection with any action, suit or proceeding brought by or against the Mortgagee for the enforcement of this Mortgage or arising from the interest of the Mortgagee hereunder; or (iii) in the preparation for the commencement or defense of any such foreclosure or other action related to this Mortgage or the Project;

(e) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the IMFL;

(f) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 5/15-1512 of the IMFL;

(g) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) if the Project or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (ii) if Mortgagee's interest in the Project is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Mortgagee takes possession of the Project imposed by Subsection (c)(1) of Section 5/15-1704 of the IMFL; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments required or deemed by Mortgagee to be for the benefit of the Project or required to be made by the owner of the Project under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Project; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Project is a member in any way affecting the Project; (vii) if the Loan is a construction loan, costs incurred by Mortgagee for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement, and (viii) pursuant to any lease or other agreement for occupancy of the Project for amounts required to be paid by mortgagor.

(h) All Protective Advances shall be additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Loan Documents.

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

(j) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the IMFL, apply to and be included in: (i) the determination of the amount of indebtedness secured by this Mortgage at any time; (ii) the indebtedness found due and owing to the Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose; (iii) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the IMFL; (iv) application of income in the hands of any receiver or "mortgagee-in-possession"; and (v) computation of any deficiency judgment pursuant to Section 5/15-1508(e) of the IMFL.

10.17.4 Agricultural or Residential Real Estate. Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the IMFL) or residential real estate (as defined in Section 5/15-1219 of the IMFL).

10.17.5 Other Amounts Secured; Maximum Principal Amount. Mortgagor acknowledges and agrees that this Mortgage secures the entire principal amount of the Note and interest accrued thereon, regardless of whether any or all of the loan proceeds are disbursed on or after the date hereof, and regardless of whether the outstanding principal is repaid in whole or in part and future advances made at a later date, as well as any amounts owed to Mortgagee pursuant to this Mortgage, any and all litigation and other expenses incurred by Mortgagee pursuant to the terms hereof and any other amounts as provided herein or in any of the other Loan Documents, including, without limitation, the payment of any and all loan commissions, service charges, liquidated damages, expenses and advances due to or paid or incurred by Mortgagee in connection with the Loan, and in accordance with the Loan Documents; provided nothing in this Section shall be deemed an obligation on the part of Mortgagee to make any future advances of any sort. Under no circumstances, however, shall the total amount of the Debt secured hereby plus such additional amounts exceed ELEVEN MILLION THIRTY-ONE THOUSAND NINETY-SEVEN AND 38/100 Dollars (\$11,031,097.38).

10.17.6 Business Loan Recital/Statutory Exemption. Mortgagor acknowledges and agrees that (a) the proceeds of the Loan will be used in conformance with subparagraph (1)(1) of Section 4 of "An Act in relation to the rate of interest and other charges in connection with sales or credit and the lending of money," approved May 24, 1879, as amended (815 ILCS 205/4(1)(1)); (b) the Debt secured hereby has been incurred by Mortgagor solely for business purposes of Mortgagor and for Mortgagor's investment or profit, as contemplated by said Section 4; and (c) the Debt secured hereby constitutes a loan secured by real estate within the purview of and as contemplated by said Section 4.

10.17.7 Collateral Protection Act. Pursuant to the requirements of the Illinois Collateral Protection Act, Mortgagor is hereby notified as follows:

Unless the Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage or any of the other Loan Documents, Mortgagee may purchase insurance at Mortgagor's expense to protect Mortgagee's interest in the Project or any other collateral for the Debt. This insurance may, but need not protect Mortgagor's interests. The coverage Mortgagee purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Project or any other collateral for the Debt. Mortgagor may later cancel any insurance purchased by Mortgagee but only after providing Mortgagee with evidence that Mortgagor has obtained insurance as required by this Mortgage or any of the other Loan Documents. If Mortgagee purchases insurance for the Project or any other collateral for the Debt, Mortgagor will be responsible for the costs of that insurance, including interest in any other charges that Mortgagee may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

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10.17.1 Variable Rate of Interest. Mortgagor and Mortgagee hereby acknowledge that interest will accrue on the Loan at a variable rate of interest which will be determined pursuant to a formula described in the [Note/Loan Agreement]. The outstanding principal amount of the Loan, together with all accrued and unpaid interest thereon, shall be due and payable in full on the Maturity Date.

10.17.2 Release. Upon payment in full of all sums due under the Note, this Mortgage and the other Loan Documents, Mortgagee, shall execute and deliver to Mortgagor a release of this Mortgage. Mortgagor shall be responsible for the recordation of such release and the payment of any recording and filing costs.

10.17.3 Fixture Filing. The personal property Collateral in which Lender has a security interest under this Mortgage includes goods which are or may become fixtures on the Land. This Mortgage constitutes a fixture filing to the extent allowable by law which will be recorded in the real estate records of the county in which the Project is located and that relates to the Project more particularly described in this Mortgage. In that regard, the following information is provided:

Name of Debtor: SCOTTLAND CONSTRUCTION LLC

Address of Debtor: 403 N. Wabash Ave., Suite 17B
Chicago, IL 60611

Name of Secured Party: CONSTRUCTION LOAN SERVICES II, LLC

Address of Secured Party: 5601 6th Ave S, Ste 350
Seattle, WA 98108

10.18 Waiver Of Jury Trial. LENDER AND BORROWER EACH HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, OR RELATED TO, THE SUBJECT MATTER OF THIS MORTGAGE. THIS WAIVER IS KNOWINGLY, INTENTIONALLY, AND VOLUNTARILY MADE BY LENDER AND BORROWER, AND LENDER AND BORROWER ACKNOWLEDGE THAT NO PERSON ACTING ON BEHALF OF THE OTHER PARTY HAS MADE ANY REPRESENTATIONS OF FACT TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. LENDER AND BORROWER FURTHER ACKNOWLEDGE THAT THEY HAVE BEEN REPRESENTED (OR HAVE HAD THE OPPORTUNITY TO BE REPRESENTED) IN THE SIGNING OF THIS MORTGAGE AND IN THE MAKING OF THIS WAIVER BY INDEPENDENT LEGAL COUNSEL, SELECTED OF THEIR OWN FREE WILL, AND THAT THEY HAVE HAD THE OPPORTUNITY TO DISCUSS THIS WAIVER WITH COUNSEL.

10.19 Oral Agreements Notice.

THE RIGHTS AND OBLIGATIONS OF BORROWER AND LENDER SHALL BE DETERMINED SOLELY FROM THE WRITTEN LOAN DOCUMENTS, AND ANY PRIOR ORAL OR WRITTEN AGREEMENTS BETWEEN LENDER AND BORROWER CONCERNING THE SUBJECT MATTER HEREOF AND OF THE OTHER LOAN DOCUMENTS ARE SUPERSEDED BY AND MERGED INTO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS. THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS MAY NOT BE VARIED BY ANY ORAL AGREEMENTS OR DISCUSSIONS THAT OCCUR BEFORE, CONTEMPORANEOUSLY WITH, OR SUBSEQUENT TO THE EXECUTION OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS. THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS REPRESENT THE FINAL AGREEMENTS BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

[Remainder of Page Intentionally Left Blank; Signatures Appear on Following Page.]

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IN WITNESS WHEREOF, Borrower has executed this Mortgage, Security Agreement, Assignment of Leases and Rents, Assignment of Contracts and Plans, and Fixture Filing as the Mortgagor hereunder, and as a Debtor under the Uniform Commercial Code, as of the date set forth above.

WITNESSES:

MORTGAGOR/DEBTOR/BORROWER:

Name: _____

SCOTTLAND CONSTRUCTION LLC,
an Illinois limited liability company

Name: _____

By:  _____

Name: Dora Brown
Title: Its Member

STATE OF ILLINOIS

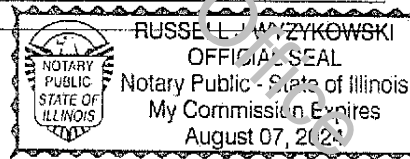
COUNTY OF COOK }

ss.

The foregoing instrument was acknowledged before me this 5-26-2021 [DATE] by Dora Brown [NAME], member [TITLE] of SCOTTLAND CONSTRUCTION LLC, an Illinois limited liability company, on behalf of the company, [He/She] [is personally known to me or has produced ID TYPE OF IDENTIFICATION] as identification].

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 26 day of May, 2021.

Printed Name Russell Wyzkowski
NOTARY PUBLIC in and for the State of Illinois
residing at Chicago, Ill
My Commission Expires _____
Commission Number: _____



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EXHIBIT A

LEGAL DESCRIPTION

LOTS 7, 8, 9 AND 10 IN BLOCK 1, IN ROBBINSWOOD, BEING A SUBDIVISION OF BLOCKS 1 AND 2 IN EINSPAHR'S SUBDIVISION IN THE EAST 1/2 OF WEST 1/2 OF SECTION 2, TOWNSHIP 36 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Commonly Known As: 3644, 3646, 3648 and 3650 W. 139th Pl, Robbins, IL 60472

Tax Parcel ID Number: 20-02-305-017-0000, 20-02-305-018-0000, 20-02-305-019-0000, 20-02-305-020-0000

Property of Cook County Clerk's Office