

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2121139116 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 07/30/2021 09:30 AM Pg: 1 of 47

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN: 03-17-301-017-0000**

Address:

Street: 200-470 E Rand Rd

Street line 2:

City: Arlington Heights

State: IL

ZIP Code: 60004

Lender: National Western Life Insurance Company

Borrower: AMCAP Northpoint II LLC

Loan / Mortgage Amount: \$26,000,000.00

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

Certificate number: 437C1FB4-4969-4BDA-81B0-DEA8BCC5DBB2

Execution date: 7/29/2021

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**PREPARED BY, RECORDING
REQUESTED BY AND WHEN
RECORDED MAIL TO:**
DuBOIS BRYANT & CAMPBELL, LLP
303 Colorado, Suite 2300
Austin, TX 78701

(Space Above For Recorder's Use)

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

NAME AND ADDRESS OF MORTGAGOR:	AMCAP NORTHPOINT II LLC, c/o AmCap Management LLC, 333 Ludlow Street, South Tower, 2th Floor, Stamford, Connecticut 06902, Attention: Jonathan Greenfield
NAME AND ADDRESS OF LENDER:	NATIONAL WESTERN LIFE INSURANCE COMPANY, P.O. Box 209080, Austin Texas 78720, Attn: Mortgage Loan Department
PROPERTY ADDRESS / ABBREVIATED LEGAL DESCRIPTION:	200 – 470 East Rand Road, Arlington Heights, Illinois 60004 Additional legal description on <u>Exhibit A</u> of this document.
ASSESSOR'S PROPERTY TAX PARCEL ACCOUNT NUMBER(S):	03-17-301-017-0000 03-17-301-019-0000 03-17-301-020-0000 03-17-301-021-0000 03-17-301-022-0000

THIS INSTRUMENT COVERS GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY AND SHOULD BE FILED FOR RECORD IN THE REAL PROPERTY RECORDS WHERE MORTGAGES AND DEEDS OF TRUST ON REAL ESTATE ARE RECORDED. THIS INSTRUMENT SHOULD ALSO BE INDEXED AS A UNIFORM COMMERCIAL CODE FINANCING STATEMENT COVERING GOODS THAT ARE OR WILL BECOME FIXTURES ON THE DESCRIBED REAL PROPERTY, THE MAILING ADDRESSES OF THE SECURED PARTY AND THE DEBTOR ARE WITHIN.

THIS INSTRUMENT SECURES FUTURE ADVANCES.

Mortgage
3407904

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RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

National Western Life Insurance Company
10801 N. Mopac Expressway, Building 3
Austin, Texas 78759-5415
Attn: Mortgage Loan Department

Tax ID Numbers: 03-17-301-017-0000
03-17-301-019-0000
03-17-301-020-0000
03-17-301-021-0000
03-17-301-022-0000

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

29th This Mortgage, Security Agreement and Fixture Filing (this "Mortgage") is made on this day of July, 2021 and effective as of July 29, 2021 (the "Effective Date") and is entered into between **AMCA NORTHPOINT II LLC**, a Delaware limited liability company ("Maker") whose mailing address is c/o AmCap Management LLC, 333 Ludlow Street, South Tower, 8th Floor, Stamford, Connecticut 06902, Attention: Jonathan Greenfield, for the benefit of **NATIONAL WESTERN LIFE INSURANCE COMPANY**, a Colorado insurance corporation, whose mailing address is Attn: Mortgage Loan Department, P.O. Box 209080, Austin, Texas 78720 (hereinafter termed "Noteholder").

I DEFINITIONS.

1.1 The term "Indebtedness" shall mean and include:

(1) Any and all sums becoming due and payable pursuant to the Note, as hereinafter defined;

(2) Any and all other sums becoming due and payable by Maker to Noteholder including, but not limited to, such sums as may hereafter be borrowed by Maker from Noteholder (it being contemplated that such future indebtedness may be incurred), including, but not limited to advancements or expenditures made by Noteholder pursuant to the terms and conditions of this Mortgage or any other document evidencing, securing or otherwise relating to the Note;

(3) Any and all obligations, covenants, agreements and duties of any kind or character of Maker now or hereafter existing, known or unknown, arising out of or in connection with the Note, this Mortgage, or any other document evidencing, securing or relating to the Note; and

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(4) All renewals, extensions, modifications, increases, consolidations and rearrangements of any or all of the obligations, covenants, agreements and duties of Maker defined herein under the term Indebtedness, whether or not Maker executes any renewal, extension, modification, increase, consolidation or rearrangement.

1.2 The term "Collateral" shall mean and include (a) all of the goods, articles of personal property, accounts, general intangibles, instruments, documents, furniture, furnishings, equipment and/or fixtures of every kind and nature whatsoever (including, without limitation, the items described in subsections (b) - (f) below) now or hereafter owned by Maker, in or hereafter placed in, or used or which may become used, in connection with or in the use, ownership, enjoyment or operation by Maker of the Mortgaged Premises, together with all additions thereto, replacements thereof, substitutions therefor and all proceeds thereof; (b) all rents, rentals, payments, compensations, revenues, profits, incomes, leases, licenses, concession agreements, insurance policies, plans and specifications, contract rights, accounts, escrowed funds, and general intangibles in any way relating to the Mortgaged Property or used or useful in the use, enjoyment, ownership or operation by Maker of the Mortgaged Property; (c) all names, trade names, signs, marks, and trademarks under which the Mortgaged Property, or any part thereof, is known or operated, all rights to carry on business under any such names, trade names, signs, marks, and trademarks or any variant thereof, and goodwill in any way relating to the Mortgaged Property, and all of Maker's rights to carry on the business of Maker under all such name or names and any variant or variance thereof (excluding any names or marks owned or utilized by any tenants or other occupants of the Mortgaged Property); (d) all deposits, awards, damages, payments, escrowed monies, insurance proceeds, condemnation awards or other compensation, and interests, fees, charges or payments accruing on or received from or to be received by Maker on any of the foregoing in any way relating to the Mortgaged Property, or the ownership, enjoyment or operation by Maker of the Mortgaged Property together with all proceeds of the foregoing described in this Section 1.2; (e) all cash, securities, uncertificated securities, investment property, securities accounts, financial assets, deposit accounts, securities entitlements, and other personal property now or hereafter in or coming into or being credited to, or represented by any escrow account pledged as collateral for the Indebtedness, including, without limitation, all interest, dividends, rights, splits and income on such items and (f) all products, proceeds, substitutions, and replacements of any of the above described collateral.

1.3 The term "Mortgaged Premises" shall mean and include (a) the real property situated in the County of Cook, State of Illinois, described on EXHIBIT "A", which is attached hereto and incorporated herein for all purposes; together with all buildings and improvements of every kind and description now or hereafter erected or placed thereon and all materials now or hereafter placed thereon intended for construction, reconstruction, alteration and repairs of such buildings and improvements, all of which materials shall be deemed to be included as a part of said real property immediately upon the delivery thereof to said real property; together with, with respect to said real property, all tenements, hereditaments, easements, rights of way, rights, privileges and appurtenances; all water, irrigation and drainage rights; all air rights; and all oil, gas and mineral rights and interests; (b) all fixtures now or hereafter owned by Maker and attached to, contained in or used in connection with said real property, and all renewals and replacements thereof, including but not limited to (i) all equipment, apparatus, machinery,

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motors, elevators, fittings and radiators, (ii) all plumbing, heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment; (iii) all awnings, storm windows and doors, mantels, cabinets, rugs, carpeting, linoleum, stoves, shades, draperies, blinds and water heaters; (iv) such other goods and chattels and personal property as are usually furnished by landlords in letting an unfurnished building, or which shall be attached to said buildings and improvements by nails, screws, bolts, pipe connections, masonry or in any other manner; and (v) all built-in equipment as may be shown by plans and specifications; and (c) Maker's right, title and interest in and to the air space and right to use said air space above the Mortgaged Premises to the extent owned by Maker pursuant to applicable laws, all rights of ingress and egress by pedestrians and motor vehicles to parking facilities on or within the Mortgaged Premises, and all easements now or hereafter affecting same, royalties and all rights appertaining to the use and enjoyment of the Mortgaged Premises, including, without limitation, alleys, drainage, sewer, mineral, water, oil and gas rights, rights-of-way, vaults, ways, passages, water courses, water rights and powers, and all estates, rights, titles, interests, reversionary interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way belonging, relating or appertaining to the Mortgaged Premises or any part thereof, or which hereafter shall in any way belong, relate or be appurtenant thereto and the reversion and reversions, remainder and remainders thereof.

1.4 The term "Mortgaged Property" shall mean the (a) Mortgaged Premises, (b) Collateral, and (c) any and all executed written extensions, improvements, betterments, renewals, substitutions and replacements of, and all additions and appurtenances to, the foregoing, hereafter acquired by, or released to, Maker, or constructed, assembled or placed by Maker or by others for Maker's benefit thereon, and all conversions of the security constituted thereby, which immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further conveyance, assignment or other act by Maker, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by Maker and specifically described herein.

1.5 The term "Note" shall mean that certain Promissory Note of even date herewith, incorporated herein by this reference, executed by Maker and payable to the order of Noteholder in the principal sum of TWENTY-SIX MILLION AND NO/100 DOLLARS (\$26,000,000.00), payable with interest in installments as stipulated therein and providing for the right to declare the unpaid principal balance due and payable upon the occurrence of an Event of Default and otherwise as provided therein and providing for reasonable attorneys' fees, and all notes given in renewal, extension, modification, increase, consolidation or rearrangement of said Promissory Note or any portion thereof.

1.6 The term "Loan" shall mean the loan evidenced by the Note.

1.7 The term "Loan Documents" shall mean, individually and collectively, the Note, this Mortgage and any and all other documents securing, evidencing or relating to the Note.

1.8 The term "Guarantor" shall mean AmCap Management LLC, a Delaware limited liability company.

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II. CONVEYANCE.

In consideration of Ten Dollars (\$10.00) cash in hand paid, of Noteholder's advancing or extending to Maker the funds or credit constituting a part of the Indebtedness, and the mutual covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, Maker hereby mortgages, conveys, grants, transfers and assigns to Noteholder the above-described Mortgaged Property, for the purpose of securing the Indebtedness, and the full and complete performance of each and every obligation, covenant, duty and agreement of Maker contained herein or in the Note or any other document executed by Maker pertaining to the Note or as security therefor; TO HAVE AND TO HOLD the Mortgaged Property, together with the rights, privileges, hereditaments, easements and appurtenances thereto belonging unto Noteholder and its successors and assigns forever, and Maker is hereby bound to warrant and forever defend the Mortgaged Property unto Noteholder, its successors and assigns, against the claims of all persons claiming any interest in the Mortgaged Property or any part thereof save and except only these items identified on **EXHIBIT "B"** attached hereto and incorporated herein for all purposes (the "Permitted Exceptions").

III. ADDITIONAL SECURITY

As further security for the Indebtedness and the full and complete performance of each and every obligation, covenant, agreement and duty of Maker contained herein or contained in any other document executed by Maker pertaining to the Note or the security therefor:

A. Security Interest. Maker hereby grants and conveys to Noteholder a security interest in and lien on all of the Collateral. This Mortgage shall serve as a Security Agreement created pursuant to the applicable laws of Illinois, and Noteholder shall have and may exercise all rights, remedies and powers of a secured party under the applicable laws of Illinois. Maker hereby represents, warrants and covenants that (1) Maker is the owner and holder of the Collateral free and clear of any adverse claim, security interest or encumbrance, except those created herein and the Permitted Exceptions; (2) Maker will defend the Collateral, and the priority of the security interest created herein as a valid first security interest against all claims and demands of any person at any time claiming the same or any interest therein; (3) there are no financing statements regarding the Collateral executed by Maker, as debtor, now on file in any public office except those financing statements which are being released contemporaneously with the delivery of this transaction or which have been authorized by Noteholder; (4) Maker authorizes Noteholder to file or record such other and further agreements, financing statements and assignments in such offices and at such times as it is deemed by Noteholder to be necessary or desirable; and (5) Maker will execute and deliver to Noteholder such other and further agreements, financing statements and assignments as Noteholder may reasonably request, provided such further agreements, financing statements and assignments do not materially increase Maker's obligations or materially decrease Maker's rights under the Loan Documents.

This Mortgage is intended to constitute a fixture filing in accordance with the applicable provisions of the applicable laws of Illinois. The debtor is the Maker and the secured party is the Noteholder and their addresses are those set forth at the beginning of this Mortgage. Certain of the Mortgaged Property is or will become "fixtures" (as that term is defined in the Uniform

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Commercial Code, as amended from time to time, in effect in the State of Illinois (the "Code")), and this Mortgage, upon being filed for record in the real estate records of the county wherein the Mortgaged Premises are situated, shall operate also as a financing statement filed as a fixture filing in accordance with the applicable provisions of the Code upon such Mortgaged Property that is or may become fixtures. Maker's organizational identification number is 82-1451962.

DEBTOR: AmCap NorthPoint II LLC, a Delaware limited liability company, at the address referenced above; and

SECURED PARTY: NATIONAL WESTERN LIFE INSURANCE COMPANY, a Colorado insurance corporation, at the address referenced above.

B. Assignment of Condemnation Awards. To the extent of the full amount of the Indebtedness secured hereby and of the costs and expenses (including reasonable attorneys' fees) incurred by Noteholder in the collection of any award or payment, Maker hereby assigns to Noteholder any and all awards or payments, including all interest thereon, together with the right to receive the same, which may be made with respect to the Mortgaged Property as a result of (a) the exercise of the right of eminent domain, (b) the alteration of the grade or of any street, or (c) any other injury to or decreased value in the Mortgaged Property, as well as the right, but not the obligation, to, at Maker's expense, participate in and make decisions concerning the progress of any proceeding involving any such award or payment. Maker shall give Noteholder written notice of any such action or proceeding immediately upon Maker's becoming aware of same. All such damages, condemnation proceeds and consideration shall be paid directly and solely to Noteholder whether or not an Event of Default (as defined herein) has at such time occurred, and after first applying said sums to the payment of all costs and expenses (including reasonable attorneys' fees) incurred by Noteholder in obtaining such sums, Noteholder may, at its option, apply the balance on the Indebtedness, in any order and whether or not then due, without prepayment or penalty, or to the restoration of the Mortgaged Property, or release the balance to Maker. Said application or release shall not cure or waive any default under any of the Loan Documents.

IV. ASSIGNMENT OF RENTS.

In further consideration for the indebtedness evidenced by the Note, Maker hereby collaterally, absolutely and unconditionally assigns to Noteholder all leases and occupancy agreements and all rents, revenues, profits and incomes from the Mortgaged Property or any portion thereof. Maker agrees that Noteholder may receive and collect all rents, revenues, profits and income, accrued or accruing thereafter, as provided in the Note, so long as any of the Indebtedness remains unpaid, applying so much thereof as may be collected first to the expenses incident to taking possession and/or the collection thereof, and second to the payment of the Indebtedness other than the Note and then to the amount of the Note then remaining unpaid, at Noteholder's discretion, either principal or interest, in any order, and whether then matured or not, paying the balance, if any, to Maker. It is intended by Maker and Noteholder that this assignment of leases and rents constitutes an absolute assignment and not an assignment for additional security only and that Noteholder shall be entitled to exercise its rights hereunder whether or not Noteholder is in possession of the Mortgaged Premises at such time. Maker

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agrees to fulfill or perform each and every covenant of any and all leases and guaranties of leases of the Mortgaged Property so as to keep all such leases and guaranties at all times in full force and effect. Except as otherwise permitted under the Assignment of Rents, Income and Profits of even date herewith ("Assignment of Rents"), Maker agrees not to enter into any new lease, and not to make any modification, consent to any modification of, or cancel, terminate or consent to the surrender of any lease of all or any part of the Mortgaged Property or any guaranty of such lease after such lease or guaranty has been executed by Maker and the lessee or guarantor, as applicable, without the prior written consent of Noteholder; the failure to fulfill or perform any such covenant or the making of or consent to any such modification or cancellation, termination or surrender shall be an Event of Default. Nothing contained in this Mortgage or in any other document securing, evidencing or relating to the Indebtedness shall preclude Noteholder from taking any action to cure or remedy any default of the landlord or lessor under any lease of all or any portion of the Mortgaged Property or any guaranty of lease, or any act, omission or occurrence which due to the passage of time, the giving of notice, or both, would be a default under any such lease or guaranty of lease or take any other action in connection therewith and any amounts expended by Noteholder in connection with such cure or remediation including, without limitation, reasonable attorney's fees and expenses, shall be an advance under and secured by this Mortgage and shall be included in the Indebtedness and shall be paid by Maker to Noteholder within ten (10) Business Days of Maker's receipt or written demand therefor. The preceding sentence shall not be construed to obligate Noteholder to cure any such actual or potential lease defaults or any guaranty of lease defaults.

Notwithstanding the above, provided, however, so long as no Event of Default has occurred and is continuing, Maker is hereby granted a license to collect and retain the currently accruing rents, revenues, income and profits from the Mortgaged Property, but in no event shall Maker accept more than one (1) month's prepaid rent from any tenant at the Mortgaged Property, and in the event of a foreclosure or deed-in-lieu of foreclosure, Maker shall remit all security deposits of any and all tenants at the Mortgaged Property then held by Maker to Noteholder. If an Event of Default shall occur, however, thereupon, and at any time thereafter such default is continuing beyond any applicable cure period expressly provided herein, Noteholder may terminate such license.

V. MAKER'S REPRESENTATIONS, WARRANTIES AND COVENANTS

In order to induce Noteholder to lend the funds evidenced by the Note, Maker represents, warrants and covenants as of the date hereof that:

A. Accurate Loan Information. All information and financial statements furnished or to be furnished to Noteholder by or on behalf of Maker in connection with the Indebtedness secured by this Mortgage is or at the time of delivery will be complete and accurate in all material respects.

B. Valid Title. Maker is the lawful owner of the Mortgaged Property and has good right and lawful authority to mortgage and pledge the same.

C. Freedom from Encumbrances. The Mortgaged Property is free from any and all

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liens and encumbrances save and except only the Permitted Exceptions and the lien for ad valorem taxes not yet due and payable, and Maker does represent and warrant and will defend title to the Mortgaged Property against any and all claims or demand by third parties whatsoever save and except only the Permitted Exceptions.

D. Maintenance of Lien Priority. Maker shall take all steps necessary to preserve and protect the validity and priority of the liens on the Mortgaged Property created hereby. Maker shall execute, acknowledge and deliver such additional documents as Noteholder may deem necessary in order to preserve, protect, continue, extend or maintain the liens and security interests created hereby as first liens on the Mortgaged Property, provided such additional documents do not materially increase Maker's obligations or materially decrease Maker's rights under the Loan Documents. All reasonable costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the security interest and the liens herein created as valid first and subsisting liens shall be paid by Maker.

E. Value of the Mortgaged Property. Maker acknowledges that the value of the Mortgaged Property, as established by an appraisal submitted to Maker, is in excess of the Indebtedness secured hereby. Maker acknowledges but for the Mortgaged Property having a value in excess of the amount of the Indebtedness, Noteholder would not make the Loan and advance the funds hereunder. Maker agrees that Noteholder shall at all times have the benefit of the Mortgaged Property as the security for the Indebtedness even though the value thereof may now or in the future exceed the amount of the Indebtedness secured hereby.

F. Representations, Warranties and Covenants of a Limited Liability Company. Maker hereby represents, warrants and covenants that:

(1) Maker is a Delaware limited liability company created under that certain Certificate of Formation filed with the Office of the Secretary of State of Delaware and that certain Operating Agreement of AmCap NorthPoint II LLC dated effective April 5, 2017 (the "Company Agreement") and there is no other company agreement or amendments thereto. All of the documents governing the Maker, including, without limitation, the Company Agreement, are referred to herein as the "Governing Documents."

(2) Maker is managed by its sole member, PG AmCap JV LLC, a Delaware limited liability company ("Member"). AmCap CCN Manager LLC, a Delaware limited liability company ("AmCap CCN") is the managing member of Member. AmCap Management LLC, a Delaware limited liability company ("AmCap Manage") is the managing member of AmCap CCN. AmCap, Incorporated, a Connecticut corporation ("AmCap Inc", together with AmCap CCN and AmCap Manage collectively, "Manager") is the managing member of AmCap Manage. Jake Bisenius is the President and CIO of, and Jonathan Greenfield is the Treasurer and CFO of, AmCap Inc.

(3) Jonathan Greenfield is authorized to execute and deliver the Note, this Mortgage, and all other documents which Noteholder may now or from time to time hereafter require to be executed on behalf of Maker in connection with the Note, this Mortgage or the Indebtedness, and no signature or any other action of any other person or entity shall be required to bind Maker,

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and Maker shall use the Loan proceeds to invest in and/or operate the Mortgaged Property, and shall not use any portion of the Loan proceeds to benefit or otherwise invest in any other projects or other property.

(4) Maker will not modify, amend or terminate the Governing Documents without Noteholder's consent nor, except for a Permitted Transfer, defined below, permit any interest of any member thereof to be sold, transferred, conveyed, encumbered or otherwise the subject of any Transaction, defined below.

(5) Maker will not permit any interest of any Constituent Owner (as defined below), to be sold, transferred, conveyed, encumbered or otherwise the subject of any Transaction.

(6) Maker is, and shall continue to be at all times while the Loan is outstanding, (a) organized and existing under the laws of Delaware and (b) qualified to transact business in Illinois and any other State where the conduct of its business requires it to be qualified and (c) a single purpose entity.

(7) Member and Managers are, and shall continue to be at all times while the Loan is outstanding, (a) organized and existing under the laws of Delaware and Connecticut, as applicable, and (b) qualified to transact business in Illinois and any other State where the conduct of its business requires it to be qualified.

G. Construction and Materials. Maker hereby warrants, represents and covenants that all persons and entities who have provided labor or materials to or for the benefit of the Mortgaged Property by, through or under Maker or otherwise at Maker's direction or request at any time prior to the date of this Mortgage have been paid in full.

H. Hazardous Waste. Maker hereby represents and warrants that, except as disclosed in that certain environmental assessment delivered to Noteholder regarding the Mortgaged Property (the "Environmental Report"), as of the date hereof, Maker is not aware of any facts or circumstances which may give rise to any litigation, proceedings, investigations, citations or notices of violations resulting from the use, presence, generation, manufacture, storage, discovery or disposition of, on, under or about the Mortgaged Property or the transport to or from the Mortgaged Property of any Hazardous Materials, defined below. Maker hereby represents and warrants that, subject to any information set forth in the Environmental Report or obtained by Noteholder, the Mortgaged Property is not in violation of and Maker covenants and agrees not to use or permit the use of the Mortgaged Property for any purpose which would be in violation of, any federal, state or local health or environmental statute, regulation, ordinance or publication which is presently in effect or that may be promulgated in the future, as such statutes, regulations, ordinances and publications may be amended from time to time relating to Hazardous Materials, including, without limitation, with respect to industrial hygiene or to health or environmental conditions on, under, or about the Mortgaged Property (including, but not limited to, soil and ground water conditions) or with respect to the owner's or occupant's thereof. The foregoing representations and warranties shall survive foreclosure under this Mortgage and shall constitute continuing representations and warranties to Noteholder, its successors and

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assigns, as to conditions existing prior to foreclosure or in deed in lieu of foreclosure only. The term "Hazardous Materials", as used in this Mortgage, shall include but not be limited to:

- (i) petroleum, petroleum based products and oil;
- (ii) asbestos of any form which is or could become friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls (sometimes known as a "pcb");
- (iii) tanks, whether empty, filled or partially filled with any substance, material, chemical or other waste;
- (iv) any substance, material, chemical or other waste including, without limitation any explosive, flammable substances, explosives or radioactive materials, hazardous or toxic waste, hazardous or toxic materials, hazardous, toxic or radioactive substances, contaminants or pollutants and any of the preceding which are defined as or included in the definition of "Hazardous Substance", "Hazardous Waste", "Hazardous Material" or "Toxic Substance" or other similar or related terms under any applicable local, state or federal statute, regulation, ordinance or publication (individually and/or collectively, as the context may require, "Environmental Laws") including but not limited to:
 - (1) Resource Conservation and Recovery Act of 1976 (commonly referred to as the Solid Waste Disposal Act), 42 U.S.C. Sections 6901 et seq.
 - (2) Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq.
 - (3) Clean Air Act, 42 U.S.C. Sections 7401 et seq.
 - (4) The Water Pollution and Prevention and Control Act (commonly referred to as the Clean Water Act) 33 U.S.C. Sections 1251 et seq.
 - (5) Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005, 49 U.S.C. Sections 5101 et seq.
 - (6) Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. Sections 136 et seq.
 - (7) Toxic Substances Control Act, 15 U.S.C. Sections 2601 et seq.
 - (8) Safe Drinking Water Act, 42 U.S.C. Sections 300(f) et seq.
 - (9) Solid Waste Disposal Act, 42 U.S.C. 6921 et seq.

as such statutes, regulations, ordinances and publications may be amended from

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time to time; or

- (v) any other material, substance, chemical or other waste, exposure to which is prohibited, limited or regulated from time to time by any federal, state or local statute, regulation, ordinance or publication or may pose a hazard to the health and/or safety of the occupants of the Mortgaged Property or any other adjacent or nearby property, as such statutes, regulations, ordinances and publications may be amended from time to time; and shall include, but not be limited to, any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Environmental Laws or may pose a hazard to the health and/or safety of the occupants of the Mortgaged Property or any other property which becomes in violation of any Environmental Laws contaminated with Hazardous Substances as a result of construction, operations or other activities on, or the contamination of, the Mortgaged Property ("Other Property").

NOTWITHSTANDING ANY NON-RECOURSE LANGUAGE OF THE NOTE OR THIS MORTGAGE, MAKER HEREBY AGREES TO INDEMNIFY AND HOLD HARMLESS NOTEHOLDER, ITS DIRECTORS, OFFICERS, EMPLOYEES, ATTORNEYS, CONTRACTORS AND AGENTS, AND ANY SUCCESSORS AND ASSIGNS, THEIR DIRECTORS, OFFICERS, EMPLOYEES, AND AGENTS (INDIVIDUALLY AND COLLECTIVELY THE "INDEMNITEES"), FROM AND AGAINST ANY AND ALL LOSS, DAMAGE, EXPENSE OR LIABILITY (INCLUDING REASONABLE ATTORNEY'S FEES AND INVESTIGATORY EXPENSES) INCURRED ARISING OUT OF THE USE, OCCURRENCE, GENERATION, STORAGE, TRANSPORTATION OR DISPOSAL OF HAZARDOUS MATERIALS ON OR ABOUT THE MORTGAGED PROPERTY BY MAKER IN VIOLATION OF ENVIRONMENTAL LAWS, ITS PRESENT TENANTS OR ANY FUTURE TENANTS, ANY PRIOR OWNER, OPERATOR OR TENANT OF THE MORTGAGED PROPERTY, OR ANY THIRD PARTY, INCLUDING, WITHOUT LIMITATION, (I) ALL FORESEEABLE AND ALL UNFORESEEABLE CONSEQUENTIAL DAMAGES, DIRECTLY OR INDIRECTLY ARISING OUT OF THE USE, OCCURRENCE, GENERATION, STORAGE, TRANSPORTATION OR DISPOSAL OF HAZARDOUS MATERIALS IN VIOLATION OF ENVIRONMENTAL LAWS BY MAKER, PAST, PRESENT OR FUTURE TENANTS, OWNERS OR OPERATORS OF THE MORTGAGED PROPERTY, OR ANY THIRD PARTY, (II) THE COST OF ANY REQUIRED OR NECESSARY REPAIR, CLEANUP OR DETOXIFICATION, CLAIMED, THREATENED OR ASSERTED AGAINST ANY SUCH INDEMNITEE, AND (III) ANY OF THE SAME WHICH ACCRUE TO OR ARE ACTUALLY INCURRED BY ANY OF THE INDEMNITEES AND ARISE DIRECTLY OR INDIRECTLY FROM OR OUT OF, OR IN ANY WAY CONNECTED WITH (A) THE INACCURACY OF THE CERTIFICATIONS CONTAINED HEREIN; (B) ANY ACTIVITIES ON THE MORTGAGED PROPERTY PRIOR TO OR DURING MAKER'S OWNERSHIP, POSSESSION OR CONTROL OF THE MORTGAGED PROPERTY WHICH DIRECTLY OR INDIRECTLY RESULT IN THE MORTGAGED PROPERTY OR ANY OTHER PROPERTY BECOMING CONTAMINATED WITH HAZARDOUS SUBSTANCES IN VIOLATION OF ENVIRONMENTAL LAWS; (C) THE DISCOVERY

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OF HAZARDOUS SUBSTANCES ON THE MORTGAGED PROPERTY OR ANY OTHER PROPERTY IN VIOLATION OF ENVIRONMENTAL LAWS DURING MAKER'S OWNERSHIP, POSSESSION OR CONTROL OF THE MORTGAGED PROPERTY IN VIOLATION OF ANY AND ALL LOCAL, STATE AND FEDERAL ENVIRONMENTAL LAWS, RULES AND REGULATIONS; OR (D) THE CLEAN-UP EITHER BEFORE OR AFTER SUCH A TRANSFER OF HAZARDOUS SUBSTANCES FROM THE MORTGAGED PROPERTY OR ANY OTHER PROPERTY AS MAY BE REQUIRED UNDER ANY AND ALL LOCAL, STATE OR FEDERAL ENVIRONMENTAL LAWS, RULES AND REGULATIONS; SUCH INDEMNITY AND HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE ORDINARY OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE, OF AN INDEMNITEE AND FOR ANY ACTION OR OCCURRENCE FOR WHICH THE INDEMNITEE MAY INCUR STRICT LIABILITY, BUT SUCH INDEMNITY AND HOLD HARMLESS SHALL NOT APPLY WITH RESPECT TO ANY HAZARDOUS SUBSTANCES WHICH FIRST OCCURRED ON THE MORTGAGED PROPERTY AFTER ANY FORECLOSURE OF THIS MORTGAGE OR CONVEYANCE IN LIEU THEREOF OR TO THE EXTENT THAT SUCH LOSS, DAMAGE, EXPENSE OR LIABILITY IS CAUSED BY OR ATTRIBUTABLE TO SUCH INDEMNITEE'S OR ITS AGENTS, EMPLOYEES, REPRESENTATIVES, SUCCESSORS OR ASSIGNS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. MAKER'S OBLIGATIONS PURSUANT TO THE FOREGOING INDEMNITY AND HOLD HARMLESS SHALL SURVIVE ANY TERMINATION OF THE ESTATE CREATED BY THIS MORTGAGE WHETHER AS A RESULT OF THE EXERCISE BY NOTEHOLDER OF ANY DEFAULT REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY OR OTHERWISE. MAKER ACKNOWLEDGES AND AGREES THAT AS A CONDITION PRECEDENT TO MAKING THE LOAN TO MAKER EVIDENCED BY THE NOTE SECURED BY THIS MORTGAGE, NOTEHOLDER HAS REQUIRED THAT MAKER PROVIDE TO THE INDEMNITEES THE INDEMNITY SET FORTH HEREIN AND THAT NOTEHOLDER WOULD NOT CONSUMMATE THE LOAN WITHOUT THIS INDEMNITY AND HOLD HARMLESS AND THAT THE INDEMNITY AND HARMLESS CONTAINED HEREIN IS A MATERIAL INDUCEMENT FOR NOTEHOLDER'S AGREEMENT TO MAKE THE LOAN. FURTHER, MAKER AGREES THAT THE FOREGOING INDEMNIFICATION IS SEPARATE, INDEPENDENT OF AND IN ADDITION TO ITS UNDERTAKINGS AS MAKER UNDER THE NOTE, AS MAKER UNDER THIS MORTGAGE, AS ASSIGNOR UNDER THE ASSIGNMENT OF LEASES AND RENTS AND ANY AND ALL OTHER DOCUMENTS, AGREEMENTS AND UNDERTAKINGS EXECUTED BY MAKER IN FAVOR OF NOTEHOLDER PURSUANT TO THE NOTE. MAKER AGREES THAT A SEPARATE ACTION MAY BE BROUGHT TO ENFORCE THE PROVISIONS OF THIS INDEMNIFICATION AND HOLD HARMLESS, WHICH SHALL IN NO WAY BE DEEMED TO BE AN ACTION ON THE NOTE OR UNDER THIS MORTGAGE, WHETHER OR NOT NOTEHOLDER WOULD BE ENTITLED TO A DEFICIENCY JUDGMENT FOLLOWING A FORECLOSURE SALE OF THE MORTGAGED PROPERTY.

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Except as otherwise disclosed to Noteholder in writing, the present use and occupancy of the Mortgaged Property do not violate or conflict with any applicable law, statute, ordinance, rule, regulation or order of any kind, including, without limitation, Environmental Laws, zoning, building, land use, noise abatement, occupational health and safety or other laws, any building permit or any condition, grant, easement, covenant, condition or restriction, whether recorded or not and if a third-party is required under any covenants, conditions and restrictions of record or any other agreement to consent to the use and/or operation of the Mortgaged Property, Maker has obtained such approval from such party.

Except as otherwise disclosed to Noteholder in the Environmental Report, the Mortgaged Property has never been used, nor has Maker used the Mortgaged Property, for any activities which, directly or indirectly, involve the use, generation, treatment, storage, transportation or disposal of any Hazardous Materials. Except as otherwise disclosed to Noteholder in the Environmental Report, no Hazardous Materials exist on or under the Mortgaged Property or in any surface water(s) or groundwater(s) on or under the Mortgaged Property. Except as otherwise disclosed in the Environmental Report, the Mortgaged Property and its prior uses have at all times complied with all Environmental Laws, and Maker has not violated, and will not violate, any Environmental Laws.

There are no facilities on the Mortgaged Property which are subject to reporting under any State laws or Section 312 of the Federal Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. Section 11022), and federal regulations promulgated thereunder. Other than as set forth in the Environmental Report, the Mortgaged Property does not contain any underground storage tanks. Maker shall submit with the Financials (as defined below) a certificate which shall contain the Maker's certification that, during the period of time covered by the particular statement, to Maker's knowledge, no activity has been conducted upon the Mortgaged Property in violation of any state, federal or local law, ordinance or regulation pertaining to Hazardous Materials, industrial hygiene or environmental conditions.

VI. ADDITIONAL COVENANTS OF MAKER.

As long as any of the Indebtedness remains unpaid, Maker covenants and agrees that:

A. Payment of Indebtedness. Maker will pay, or cause to be paid, the Indebtedness promptly when due and payable in accordance with the terms of the Loan Documents

B. Payment of Taxes and Other Assessments. Maker will pay or cause to be paid all taxes, assessments and other governmental, municipal or other public dues, charges, fines, or impositions imposed or levied upon the Mortgaged Property or on the interest created by this Mortgage, and any assessments and charges arising under any subdivision, condominium, planned unit development, or other declarations, restrictions, regimes, or agreements affecting the Mortgaged Property (collectively, "Impositions"), or any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Mortgaged Property or on the interest created by this Mortgage, and no less than ten (10) days prior to said taxes, assessments and other governmental charges are delinquent will exhibit receipts therefor to Noteholder.

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Maker shall have the right to contest Impositions; provided, however, that (1) such contest shall be lawful, (2) such contest shall not place Noteholder in violation of any law, (3) Maker shall indemnify and hold Noteholder harmless from any and all loss, liability, cost or expense that may arise due to Maker's contest, (4) Maker shall notify Noteholder of Maker's desire to contest the Impositions, and (5) Maker shall pay the same before Impositions become delinquent. Notwithstanding the foregoing, Maker shall immediately upon request of Noteholder pay any such Impositions notwithstanding such contest if in the reasonable opinion of Noteholder the Mortgaged Property or Noteholder's rights with respect thereto shall be in jeopardy or in danger of being forfeited or foreclosed. If any tax or assessment is levied, assessed or imposed on Noteholder as a legal holder of the Note or any interest in the documents securing, evidencing or relating to the Note by any governmental authority, then unless all such taxes are paid by Maker or caused to be paid by Maker prior to delinquency and in the opinion of General Counsel of Noteholder, such payment by Maker is lawful and does not place Noteholder in violation of any law, Noteholder may, at its option, declare the Indebtedness immediately due and payable, but in this event no prepayment premium shall be due or payable.

C. Insurance. Maker shall keep or cause to be kept the Mortgaged Property insured against loss or damage by fire, windstorm, extended coverage perils, flood (in the event any of the Mortgaged Premises is within a 100-year flood plain and flood insurance is available pursuant to the United States Flood Disaster Protection Act of 1973 or any similar or successor statute or successor governmental authority), vandalism, malicious mischief and such other hazards, casualties or other contingencies and in such amounts (but in no event less than the greater of the amount of the Indebtedness from time to time secured hereby or the full replacement value thereof) as from time to time may be required by Noteholder provided said insurance is commercially reasonable, and maintain or cause to be maintained rents or rental value insurance coverage in an amount at least adequate to cover twelve (12) months' principal and interest installments on the Note and together with twelve (12) months' property taxes and insurance premiums, with respect to the Mortgaged Property covering the risk of loss due to the occurrence of any of the foregoing hazards, in each case and in such amounts, in such manner and in such companies as Noteholder may reasonably approve in writing, with insurance companies that maintain an A.M. Best financial rating of at least A, and all such policies shall contain a waiver of subrogation and provide that any losses payable thereunder shall (pursuant to standard mortgagee clauses without contribution, including one providing that such insurance as to the interest of Noteholder shall not be invalidated by any act or omission or neglect of Maker, to be attached to each policy) be payable to Noteholder. Maker shall cause certificates evidencing coverage of any and all such insurance policies to be deposited with Noteholder and, if requested by Noteholder, copies of any insurance policies. Maker will also carry or cause to be carried public liability insurance, in such form, amounts and with such companies as Noteholder may from time to time reasonably require, with Noteholder included thereon as a named insured. Any or all of such policies may be provided under a blanket policy or policies provided such blanket policies allocate the amount of insurance required hereunder to the Mortgaged Property.

At least ten (10) days prior to the date the premiums on each such policy or policies shall become due and payable, Maker shall furnish to Noteholder evidence of the payment of such premiums. Each of such policies shall contain an agreement by the insurer that the same shall not

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be canceled or modified without at least thirty (30) days' prior written notice to Noteholder. In the event of loss under any such policy, Maker shall give immediate written notice to the insurance carrier and to Noteholder. With respect to all insurance policies except public liability insurance, Noteholder is hereby authorized, but not required, on behalf of and at the expense of Maker, whether or not an Event of Default has then occurred, to make proof of loss, to collect for, adjust or compromise any losses under any insurance policy on the Mortgaged Property, to appear in and prosecute any action arising from any of such insurance policies, and to apply, at Noteholder's option, the loss proceeds (less expenses of collection) on the Indebtedness, in any order and whether due or not, or to the restoration of the Mortgaged Property, or to be released to Maker, but any such application or release shall not cure or waive any default, subject, however, to the provisions of Article X. In case of a sale pursuant to the foreclosure provision hereunder, or any conveyance of all or any part of the Mortgaged Property in extinguishment of the Indebtedness, complete title to all insurance policies on or related to the Mortgaged Property, and the unearned premiums of same shall pass to and vest in the purchaser or Noteholder of the Mortgaged Property.

D. Escrow for Taxes and Insurance. Maker shall pay, in addition to the installments payable under the Note, on the same day as such installments are due and payable, a sum equal to 1/12th of the estimated annual taxes, hazard and rental insurance premiums, and special assessments, if any, next due on the Mortgaged Property. If the amount so paid is not sufficient to pay such taxes, insurance premiums and assessments when due, then Maker will immediately deposit with Noteholder amounts sufficient to pay the same. Funds deposited by Maker pursuant to this provision shall be used to pay such taxes, insurance premiums and assessments when due, provided that Maker has furnished Noteholder with all tax statements, premium notices and other such notices at least thirty (30) days prior to the date that any such taxes, premiums and assessments become delinquent. If there is an Event of Default under the provisions of the Note or of this Mortgage, or any of the documents relating to, securing or evidencing the Indebtedness, Noteholder may elect, at any time after default, to apply the funds accumulated under this provision against the Indebtedness in any manner or order. No interest shall accrue or be allowed on any payments under the provisions of this paragraph. Noteholder shall not be required to deposit or hold monies in an account special or separate from its general funds. Maker expressly releases Noteholder from any liability to Maker arising out of the maintenance by Noteholder of an escrow as provided herein or for payment of any sums out of such escrow, except to the extent such liability arises out of the fraud, gross negligence or willful misconduct to Noteholder. Maker further indemnifies Noteholder against claims arising out of payment of taxes or insurance premiums where Maker has failed to provide Noteholder with tax statements and premium notices as required hereby. The maintenance by Noteholder of an escrow for taxes and insurance shall not relieve Maker of its obligations under this Mortgage respecting taxes and insurance on the Mortgaged Property. Maker's obligation to pay Lender the amount for insurance premiums is subject to the terms, provisions and conditions of that side letter agreement dated as of the Effective Date.

E. Patriot Act.

(1) As of the date of this Mortgage, Maker is and, during the term of this Mortgage shall remain, in full compliance with all the applicable laws and regulations of the United States of America that prohibit, regulate or restrict financial transactions, including but not limited to,

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conducting any activity or failing to conduct any activity, if such action or inaction constitutes a money laundering crime, including any money laundering crime prohibited under the Money Laundering Control Act, 18 U.S.C. Sections 1956, 1957, or the Bank Secrecy Act, 31 U.S.C. Sections 5311 *et seq.* and any amendments or successors thereto and any applicable regulations promulgated thereunder.

(2) Maker represents and warrants that: (i) neither it, nor any of its Constituent Owners, or any officer, director, member, manager, partner or employee, is or will become named as a "Specially Designated National and Blocked Person" as designated by the United States Department of the Treasury's Office of Foreign Assets Control or as a person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; (ii) it is not owned or controlled, directly or indirectly, by the government of any country that is subject to a United States Embargo; (iii) it is not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a "Specially Designated National and Blocked Person," or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism; and that it is not engaged in this transaction directly or indirectly on behalf of, or facilitating this transaction directly or indirectly on behalf of, any such person, group, entity or nation; (iv) no funds will be used to make any payments due hereunder or pursuant to the Note which were obtained directly or indirectly from a Specially Designated National and Blocked Person or otherwise derived from a country that is subject to a United States Embargo; and (v) to Maker's knowledge, no current or future tenant of any portion of the Mortgaged Property is or will become named a "Specially Designated National and Blocked Person"; provided, however, that, in the event that a tenant of any portion of the Mortgaged Property is a publicly traded company whose shares are listed on a national stock exchange, such representation and warranty shall not apply to shareholders of such tenant.

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

(4) Maker shall notify Noteholder immediately upon receipt of any information indicating a breach of this Subsection E or if Maker or any officer, director, member, manager, member, employee or Constituent Owner of Maker is custodially detained on charges relating to money laundering, whereupon Noteholder shall be entitled to take all actions necessary so that Noteholder is in compliance with all anti-money laundering regulations. Any and all loss, damage, liability, penalty, fine or expense (including, without limitation, reasonable attorneys' fees and investigatory expenses) actually incurred by Noteholder in connection therewith, including but not limited to reasonable attorney's fees, shall be included in the Indebtedness secured hereunder and shall immediately be due and payable by Maker to Noteholder.

F. Waste, Demolition, Alteration or Replacement. Maker will cause the Mortgaged Property and every part thereof to be maintained, preserved and kept in safe and good repair,

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working order and condition, will not commit or permit waste thereon, will not remove, demolish or alter the design or structural character of any building now or hereafter erected on the Mortgaged Premises, without the prior written consent of Noteholder, and will comply or will cause the Mortgaged Property to comply with all laws and regulations of any governmental authority with reference to the Mortgaged Property and the manner and use of the same, and will from time to time make or cause to be made all necessary and proper repairs, renewals, additions and restorations thereto so that the value and efficient use thereof shall be fully preserved and maintained. Maker agrees not to remove or permit the removal of any of the fixtures or personal property included in the Mortgaged Property without the prior written consent of Noteholder, which consent shall not be unreasonably withheld, conditioned or delayed, except to the extent such removed fixtures and personal property are (i) promptly replaced with like property of at least equal value, (ii) obsolete, (iii) required by applicable law or any lease or (iv) as needed in order to comply with this Subsection F or any restoration of the Mortgaged Property pursuant to Article X. Maker shall use commercially reasonable efforts to continue or cause the continuance of such leasing activity as is presently conducted upon or contemplated for the Mortgaged Property.

G. Inventory of Personal Property. Upon written request of Noteholder, Maker shall deliver to Noteholder, if any, an inventory describing and showing the make, model, serial number and location of all fixtures and personal property owned by Maker and from time to time used in the management, maintenance and operation of the Mortgaged Property (other than inventory or property, if any, expressly excluded from the operation of this Mortgage by separate written agreement) with a certification by Maker that said inventory is, to Maker's knowledge, a true and complete schedule of such fixtures and personal property owned by Maker and used in the management, maintenance and operation of the Mortgaged Property and that such items specified in the inventory constitute all of the fixtures and personal property required in the management, maintenance and operation of the Mortgaged Property and that such items are owned by Maker free and clear of security interests, liens, conditional sales contracts or title retention arrangements. Maker hereby grants to Noteholder a security interest in all such items of fixtures and personal property owned by Maker under the terms and conditions of this Mortgage.

H. Financial Statement. Maker will furnish to Noteholder (i) within sixty (60) days after the end of each fiscal year (ending September 30th) Maker's and Member's, and within one hundred twenty (120) days after the end of each fiscal year (ending December 31st) Guarantor's, annual financial statements, including income statements and balance sheets on Maker, Member and Guarantor, and operating reports and updated rent rolls covering the operations of the Mortgaged Property, and (ii) within the tax filing extension deadlines of each fiscal year (ending September 30th), copies of tax returns for Maker, Member and Guarantor (collectively, "Financials") until the Indebtedness secured hereby has been fully paid. Such Financials shall be prepared on (a) a fair value GAAP, tax or cash basis consistently applied for Maker and Member, and (b) an accrual basis for Guarantor, and each such statement shall be in a form reasonably acceptable to Noteholder. Such Financials shall be prepared, signed and certified as true and correct by Maker, Member and Guarantor, respectively. Certified Public Accountant ("CPA") prepared Financials and reports shall not be required; however, copies of any tax returns that Noteholder requires shall be CPA prepared.

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If Maker does not deliver the Financials within five (5) business days of receipt of Noteholder's written notice therefor, there shall be added to the Indebtedness and Maker agrees to pay upon demand Two Hundred Dollars (\$200.00) for each calendar month or part thereof following the date on which Maker has received written notice from Noteholder that such Financials are due to Noteholder hereunder until the required Financials are delivered to Noteholder.

I. Restrictions upon Sale, Transfer or Mortgaging the Mortgaged Property or the Interest in Maker. Maker acknowledges that Noteholder is relying on the credit worthiness and skill of Maker and Guarantor in advancing sums secured hereby. Except for (1) a natural person's transfer by will or applicable state intestacy laws and (2) other matters specifically defined below as "Permitted Transfers" (collectively, "Permitted Transfers"): (a) if Maker should sell, trade, convey, transfer, mortgage, assign, exchange, pledge or encumber (including, without limiting these provisions or any similar references in this Mortgage, the granting of a security interest in) all or any part of the Mortgaged Property, or any interest of Maker therein, absolutely or as security for a debt or other obligation, whether done in a direct or indirect method without Noteholder's prior written consent; (b) if a member or partner of Maker (sometimes, a "Tier Two Owner") or if any shareholder, member, partner, or trustee of Maker's members or any other Tier Two Owner (sometimes, a "Tier Three Owner") (all and any "Tier Two Owners" and "Tier Three Owners" are individually and collectively a "Constituent Owner") should sell, trade, convey, transfer, mortgage, assign, exchange, pledge or encumber (including, without limiting these provisions or any similar references in this Mortgage, the granting of a security interest in) all or any part of its interest in Maker or if such shareholder, partner, member, trustee or noteholder in or of Maker shall otherwise be diluted; or (c) if Maker shall in any way, voluntarily or involuntarily be divested of title or of any interest in the Mortgaged Property, then Noteholder, at its option, may elect to accelerate the maturity of the Note and declare the entire amount of the Indebtedness immediately due and payable whereupon Maker shall have thirty (30) days to pay the full sum of the Indebtedness including, without limitation, principal and interest, whether or not any such sale, trade, conveyance, transfer, mortgage, assignment, exchange, pledge, or encumbrance might diminish the value of the security for the Indebtedness or increase the likelihood of an Event of Default or increase the likelihood of Noteholder having to resort to any other security for the Indebtedness after default or add or remove liability of any party for payment or performance of the Indebtedness. Maker further agrees that the foregoing restrictions shall be effective and remain in full force and effect throughout the term of this Mortgage and shall be applicable to Maker and each Constituent Owner and their respective heirs, executors, administrators, successors and assigns. The consent by Noteholder to any one such sale, trade, conveyance, transfer, mortgage, assignment, exchange, pledge, or encumbrance (one or more of the preceding a "Transaction") shall not waive or forfeit the right of Noteholder to elect to accelerate the Indebtedness to maturity as to any other Transaction. Maker further covenants and agrees to give written notice to Noteholder in the event there occurs any Transaction which would violate the terms and conditions of this provision. The term "Transaction" shall include any voluntary or involuntary act or omission of Maker. Nothing herein contained shall prevent Noteholder from accelerating the Note at any time in the event Maker enters into such a Transaction prohibited by this Section VI(I) and does not notify Noteholder of same. Maker may request Noteholder to waive the right to declare the entire amount of the Indebtedness immediately due and payable and

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Noteholder may, in its sole and absolute discretion, consent or refuse to consent to the Transaction and any such Transaction to which Noteholder consents shall each be deemed "Permitted Transfers". As a condition of consenting to the Transaction and waiving its right to declare the entire amount of the Indebtedness immediately due and payable for such particular Transaction (but not any future Transaction), Noteholder may, in its sole and absolute discretion, make one or more of the following requirements:

- (1) that a transfer fee equal to one percent (1%) of the then-outstanding balance under the Note be paid;
- (2) [intentionally omitted];
- (3) that the proposed transferee execute an assumption agreement or other document as Noteholder may reasonably require; or
- (4) that any other requirement deemed appropriate by Noteholder be satisfied, including but not limited to payment to Noteholder of a \$10,000.00 processing fee (which shall be credited against the 1% transfer fee above if transfer/assumption is approved and completed).

Despite the foregoing and for purposes of clarification, (i) Noteholder's consent will not be unreasonably withheld, conditioned or delayed regarding the following transfers: (a) transfers to any persons comprising Maker, as of the date of the Loan, (b) transfers to family members of any person comprising Maker, as of the date of the Loan, (c) transfers to any third-party so long as the persons comprising Maker, as of the date of the Loan, continue to control a majority interest in Maker after such transfer, as determined by Noteholder in its reasonable discretion; and (ii) there will be no default or transfer solely due to the death of Guarantor, unless Maker provides Noteholder with adequate assurance with respect to management and a replacement Guarantor satisfactory to Noteholder in its sole and absolute discretion within 180 days of such death.

Notwithstanding anything herein to the contrary, the following transfers (each, an "AmCap Transfer", and each being a Permitted Transfer) will be permitted without the consent of Noteholder, and without the necessity of paying any assumption, processing or transfer fee or any modification to the loan agreement: transfers of a direct or indirect interest in Maker to any person, provided that (A) after giving effect to such transfer, (1) Maker shall be controlled by the Key Principals or a PG Qualified Transferee (each as hereinafter defined), (2) such transfer shall not result in the Key Principals no longer possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of Maker through the ownership of voting securities, by contract or otherwise, unless (i) such transfer results in a PG Qualified Transferee possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of Maker and (ii) Maker or PG Qualified Transferee shall have provided an Acceptable Replacement Guarantor (as hereinafter defined) that executes and delivers a replacement guaranty in form and substance materially similar to the Guaranty provided on or about the date of the Note and is otherwise reasonably acceptable to Noteholder, (3) such transfer shall not result in any person owning a fifteen percent (15%) or greater direct or indirect interest in Maker if such person did not own a fifteen percent (15%) or greater direct or indirect interest in Maker as of the date of the Note, and (4) the Mortgaged Property shall

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continue to be managed by the property manager under the management agreement in existence on the date of the Note or an Acceptable Replacement Manager (as hereinafter defined) pursuant to a management agreement reasonably acceptable to Noteholder; (B) Maker shall give Noteholder notice of such transfer described in this paragraph together with copies of all instruments effecting such transfer not less than ten (10) days prior to the date of such transfer, and (C) the legal and financial structure of Maker and its members and the single purpose nature and bankruptcy remoteness of Maker and its members after such transfer shall reasonably satisfy Lender's then-current applicable underwriting criteria and requirements. As used herein, the following terms have the following respective meanings:

"Acceptable Replacement Guarantor" means (i) Partners Group Puro Bridge 2, LLC a Delaware limited liability company ("PG JV Member"), Partners Group Holding AG, or a newly formed, wholly owned subsidiary either of such entities, but only if PG JV Member (or any such subsidiary) is controlled by Partners Group Holding AG, and only to the extent such entities (x) satisfy the financial covenants (i.e., net worth and liquidity requirements) applicable to Guarantor on the closing date, as determined by Noteholder in Noteholder's reasonable discretion, and (y) satisfy Noteholder's customary and reasonable "know your customer" requirements applicable to similar guarantors for comparable loans made by Noteholder, and (ii) any other person or entity reasonably approved by Noteholder.

"Acceptable Replacement Manager" means (i) PG JV Member, and (ii) any other person or entity reasonably approved by Noteholder.

"Key Principals" means Jay Kaiser and Jake Bisenius.

"PG Qualified Transferee" means (i) Partners Group Puro Bridge 2, LLC, a Delaware limited liability company ("PG JV Member"), or a newly formed, wholly owned subsidiary thereof, but only if Partners Group Holding AG holds the power to direct or cause the direction of the management and policies of PG JV Member; or (ii) Partners Group Holding AG, or a newly formed, wholly owned subsidiary thereof.

No Transaction pursuant to the foregoing provisions of this Section 2.1, defined as a Permitted Transfer, shall in any way release Maker or any other party liable on any of the Indebtedness or liable under any document securing, evidencing or relating to the indebtedness from any such liability unless expressly provided in this Mortgage.

J. Delivery of Substitute Note. Maker will, if the Note is mutilated, destroyed, lost or stolen, deliver to Noteholder, in substitution therefor, a new promissory note containing the same terms and conditions as the Note with a notation thereon of the unpaid principal and accrued but unpaid interest. Maker shall be furnished by Noteholder with satisfactory evidence of the mutilation, destruction, loss or theft of the Note, together with a lost note affidavit executed by Noteholder reasonably acceptable to Maker.

K. Compliance with Covenants, Conditions, Restrictions and Recorded Documents. Maker shall, and shall cause, the Mortgaged Property, to fully and timely comply with all

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restrictions covenants, conditions, easements and agreements benefiting, burdening or imposed on the Mortgaged Property or any portion thereof or the owner of all or such portion of the Mortgaged Property.

L. ERISA. As of the date hereof and throughout the term of this Mortgage, (i) Maker is not and will not be an “employee benefit plan” as defined in Section 3(3) of the Employee Retirement Income Security Act, as it may be amended from time to time (“ERISA”), which is subject to Title I of ERISA; (ii) the assets of Maker do not and will not constitute “plan assets” of one or more such plans for purposes of Title I of ERISA; (iii) Maker is not and will not be a “governmental plan” within the meaning of Section 3(3) of ERISA; (iv) transactions by or with Maker are not and will not be subject to state statutes applicable to Maker regulating investments or fiduciaries with respect to governmental plans; and (v) Maker shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Noteholder of any of its rights under this Mortgage, the Note, or the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA. Maker further agrees to deliver to Noteholder such certifications or other evidence of compliance with the provisions of this section as Noteholder may from time to time reasonably request.

VII. TERMINATION OF MORTGAGE.

If Maker shall well and truly pay, or cause to be paid, all of the Indebtedness and does keep and perform each and every covenant, duty, condition, and stipulation herein imposed on Maker, in the Note contained, or in any other document securing, evidencing or relating to the Indebtedness, then this Mortgage and the grants and conveyances contained herein shall become null and void, and the Mortgaged Property shall revert to Maker and the entire estate, right, title and interest of the Noteholder will thereupon cease; and the Noteholder in such case shall, upon the request of Maker and at Maker's cost and expense, deliver to Maker proper documents acknowledging satisfaction of this document in recordable form; otherwise, this Mortgage shall remain in full force and effect.

VIII. EVENTS OF DEFAULT.

8.1 Acts Constituting Default. Maker will be in default under this Mortgage upon the happening of any of the following events or conditions, or the happening of any other Event of Default as defined elsewhere in this Mortgage (herein collectively referred to as an “Event of Default”):

(1) Maker fails to make any payment when due, and such failure continues for five (5) days of such due date (provided that for non-recurring payments, Maker shall have five (5) days after delivery of Lender's written notice to make such non-recurring payment), or any other “Event of Default” occurs under the Note beyond any applicable notice and cure period.

(2) Maker fails to keep or perform any of the covenants, conditions or stipulations contained in this Mortgage, the Note or in any other documents securing, evidencing or relating

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to the Indebtedness other than any event or condition specified in Section 8.1(1), 8.1(3), 8.1(4), 8.1(5) or 8.1(6), and Maker fails to cure such failure for more than thirty (30) days after Noteholder gives written notice of such failure to Maker; provided, however, that if Maker's cure of any such failure cannot reasonably be made within the said thirty (30) days and Maker promptly and diligently commences to cure such failure within said thirty (30) days, then the period to cure shall be deemed extended as long as Maker diligently and continuously proceeds to cure such failure to Noteholder's satisfaction not to exceed ninety (90) days after the date of the original notice to cure the same.

(3) Any warranty or representation made in this Mortgage by Maker is determined by Noteholder to be untrue in any material respect provided, however, that if such untrue representation or warranty was not an intentional misrepresentation or warranty and is susceptible of being cured, Maker shall have the right to cure the underlying facts of circumstances that cause the applicable representation or warranty to have been untrue within fifteen (15) Business Days after receipt of written notice from Noteholder.

(4) Any person, partnership, company, corporation, trust or other entity that (a) owns all or any part of the Mortgaged Property, (b) is liable for the payment of all or any part of the Indebtedness, (c) is a partner, manager or member of Maker, or (d) is a guarantor of all or any part of the Indebtedness (i) admits in writing its inability to pay its debts as they become due, (ii) files a petition or answer in bankruptcy as a debtor or seeking reorganization or an arrangement or otherwise to take advantage of any State or Commonwealth or Federal bankruptcy or insolvency law, (iii) makes an assignment for the benefit of creditors, (iv) files a petition for or consents to the appointment of a receiver for its assets or any part thereof, or (v) without its consent has a petition filed in any bankruptcy or insolvency proceeding or an order, decree or judgment entered by a court of competent jurisdiction appointing a receiver of the Mortgaged Property or approving a petition filed against it seeking reorganization or an arrangement of it or its assets or debts under any bankruptcy or insolvency law and such petition, order, decree or judgment is not dismissed, vacated, set aside or stayed within ninety (90) days from the date of entry.

(5) Except for Permitted Transfers, Maker sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting these provisions or any similar references in this Mortgage, the granting of a security interest in) the Mortgaged Property, the Collateral or any portion thereof or interest therein, or, except for Permitted Transfers, Maker or any shareholder, partner, member, trustee or beneficiary of Maker or a Constituent Owner sells, trades, conveys, transfers, mortgages, assigns, exchanges, pledges or encumbers (including, without limiting any of the provisions of this subparagraph, the granting of a security interest in) any part of its interest in Maker or any Constituent Owner, or, except for Permitted Transfers, any such event occurs involuntarily to Maker or such shareholder, partner, member, trustee or beneficiary of Maker or any shareholder, partner, member, trustee or beneficiary of any Constituent Owner, all without the prior written consent of Noteholder.

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(6) Maker's existence as a legal entity for any reason, by operation of law or otherwise, is modified in any way materially adverse to Noteholder or terminates and is not reinstated within sixty (60) days thereafter.

IX. RIGHTS OF NOTEHOLDER UPON DEFAULT.

9.1 Acceleration of Indebtedness. Upon the occurrence and during the continuance of an Event of Default or at any time thereafter, Noteholder may at its option and without demand or notice to Maker, accelerate the maturity of the Note and declare the Indebtedness secured hereby immediately due and payable. Unless otherwise provided in the Loan Documents, Maker, to the extent permitted by applicable law, hereby waives presentment for payment, protest and demand, notice of protest, demand, dishonor and default, notice of intent to declare the Indebtedness immediately due and payable and notice of the declaration that the Indebtedness is immediately due and payable, and any and all rights Maker may have to a hearing before any judicial authority prior to the exercise by Noteholder of any of its rights under this Mortgage or any other agreements securing or executed in connection with the Indebtedness, all to the extent permitted by applicable law.

9.2 Operation of Property by Noteholder. Upon the occurrence and during the continuance of an Event of Default, or at any time thereafter, in addition to all other rights herein conferred on the Noteholder, Noteholder (or any person, firm or corporation designated by Noteholder) may to the extent permitted by applicable law, but will not be obligated to, enter upon and take possession of any or all of the Mortgaged Property, exclude Maker therefrom, and hold, use, administer, manage and operate the same to the extent that Maker could do so. If the Mortgaged Property includes any type of business enterprise, Noteholder may operate and manage such business without any liability of Noteholder to Maker resulting therefrom (excepting failure to use ordinary care in the operation and management of the Mortgaged Property); and Noteholder or Noteholder's designee may collect, receive and receipt for all proceeds accruing from such operation and management, and, at Maker's expense, make repairs and purchase needed additional property, and exercise every power, right and privilege of Maker with respect to the Mortgaged Property, in each case subject to the rights of tenants or other occupants of the Mortgage Property. When and if the expenses of such operation and management have been paid and the Indebtedness has been paid, the Mortgaged Property shall be returned to Maker (providing there has been no foreclosure sale). This provision is a right created by this Mortgage and cumulative of, and is not in any way to affect, the right of the Noteholder to the appointment of a receiver given the Noteholder by law. Maker agrees that an entry upon any or all of the Mortgaged Property by Noteholder or its agents under the terms of this instrument shall not constitute Noteholder as a "mortgagee in possession."

9.3 Judicial Proceedings. Upon the occurrence and during the continuance of an Event of Default, or at any time thereafter, or upon the breach of any covenant, term or condition herein contained, Noteholder may proceed by suit for a foreclosure of its lien on the Mortgaged Property, or to sue Maker for damages on, arising out of said default or breach, or for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right.

9.4 Foreclosure Sale.

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(1) **Mechanics of Sale.** Upon the occurrence and during the continuance of any Event of Default, Noteholder, at its option and its sole discretion, to the extent permitted by applicable law may sell the Mortgaged Property at public auction to the highest bidder for cash, between the hours of 10:00 a.m. and 4:00 p.m. on the day in any month as provided by the laws of the State of Illinois as then in effect. To the extent permitted by applicable law, such sale shall be held at the area of the courthouse in the county in which the Mortgaged Property, or any part thereof, is situated, which area has been designated for such purpose by the county commissioners court of such county, but if no such area has been so designated as of the time of the posting of the notice for such sale as hereinafter provided, then such sale shall be conducted at the door of the courthouse of such county. To the extent permitted by applicable law, such sale shall be conducted only after Noteholder has caused the: (i) advertisement of the time, place and terms of sale and the description of the Mortgaged Property to be sold, by posting, or causing to be posted, at least twenty-one (21) consecutive days prior to the date of said sale, written or printed notices thereof at the door of the courthouse of the county in which the Mortgaged Property, or any part thereof, is situated, which notice may be posted by Noteholder or by any person acting for him, and which notice shall state the earliest time between 10:00 a.m. and 4:00 p.m. on the sale date that the sale will occur, and shall further state that the sale will be conducted at the door of the courthouse of the county in which the Mortgaged Property, or part thereof, is located, unless a location for such sales has been designated by the county commissioners court of such county, in which case, no specific designation of area shall be required in said notice; and (ii) to the extent permitted by applicable law, filing, at least twenty-one (21) days preceding the date of such sale, of a copy of the aforesaid notice in the office of the County Clerk of the county in which the sale is to be made. Such sale shall commence not later than three (3) hours after the time designated in said notice for the sale to occur to the extent permitted by applicable law. Noteholder shall, at least twenty-one (21) days preceding the date of such sale, serve or cause to be served written or printed notice of the proposed sale as described in this paragraph by certified mail on each debtor obligated to pay the Indebtedness secured by this Mortgage according to the records of Noteholder by the deposit of such notice, enclosed in a postpaid wrapper, properly addressed to such debtor at debtor's most recent address as shown by the records of Noteholder in a post office or official depository under the care and custody of the United States Postal Service. To the extent permitted by applicable law, Noteholder may postpone the sale of all or any portion of the Mortgaged Property without public announcement, and from time to time thereafter may further postpone such sale without public announcement. Maker hereby authorizes and empowers Noteholder to sell the Mortgaged Property, as a unit or in lots or in parcels, as Noteholder shall deem expedient. If the Mortgaged Property is located in more than one (1) county, to the extent permitted by applicable law the notices shall be (i) posted at the courthouse door and (ii) filed with the County Clerk of each county in which the Mortgaged Property is located (designating the county in which the sale will be held) and the Mortgaged Property may be sold at the door of the courthouse of any one (1) of such counties.

(2) **Collateral.** On the occurrence and during the continuance of an Event of Default, or any time thereafter, Noteholder shall have and may exercise with respect to the Collateral all rights, remedies and powers of a Secured Party under the Code with reference to the Collateral or any other items in which a security interest has been granted herein, including without limitation the right and power to sell at public or private sale or sales or otherwise dispose of, lease or

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utilize the Collateral and any part or parts thereof in any manner to the fullest extent authorized or permitted under the Code after default by Maker without regard to preservation of the Collateral or its value and without the necessity of a court order, and apply the proceeds thereof first toward the payment of all costs and expenses and reasonable attorneys' fees incurred by Noteholder, and the balance toward the payment of the Indebtedness whether or not then due, and in such order or manner as Noteholder may elect. Upon the occurrence and during the continuance of an Event of Default, Noteholder shall have, among other rights, to the extent permitted by applicable law the right to take possession of the Collateral and to enter upon any premises where the same may be situated for the purpose of repossessing the same, without being guilty of trespass and without liability for damages occasioned thereby, but subject to the rights of tenants and other occupants of the Mortgaged Property, and to take any action deemed appropriate or desirable by Noteholder, at its option and its sole discretion, to repair, restore or otherwise prepare the Collateral for sale or lease or other use or disposition as authorized herein. To the extent permitted by applicable law, Maker expressly waives any notice of sale or any other disposition of the Collateral and any rights or remedies of Maker or the formalities subscribed by law relative to the sale or disposition of the Collateral or to the exercise of any other right or remedy of Noteholder existing after default. To the extent that such notice is required and cannot be waived, Maker agrees that if such notice is mailed postage prepaid to Maker at the address shown herein at least ten (10) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for giving said notice.

Maker agrees that Noteholder may proceed to sell or dispose of both the real and personal property covered herein in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. Maker hereby grants Noteholder the right, at its option, upon the occurrence and during the continuance of an Event of Default by Maker to transfer at any time to itself or its nominee the Collateral or any part thereof and to receive the monies, income, proceeds and benefits attributable to the same and to hold the same as Collateral or to apply it on the Indebtedness, whether or not then due, and in such order and manner as Noteholder may elect. Maker covenants and agrees that to the extent permitted by applicable law all recitals and any document transferring, assigning, leasing or making other disposition of the Collateral or any part thereof shall be full proof of the matters stated therein and no other proof shall be required to establish the legal propriety of the sale or other action taken by Noteholder and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred. All rights to a marshalling of the assets of Maker, including such rights with respect to the Collateral and the Mortgaged Premises, are hereby waived.

(3) Maker's Warranties After Sale. Maker hereby authorizes and empowers Noteholder to execute and deliver to the purchaser or purchasers of any of the Mortgaged Property sold in foreclosure sales good and sufficient deeds of conveyance thereto by fee simple title, with covenants of special warranty, subject to Permitted Exceptions and the title of such purchaser or purchasers when so made by Noteholder, Maker binds itself to warrant and forever so defend.

(4) Application of Proceeds. The proceeds of any and all foreclosure sales of the Mortgaged Property shall be applied as follows, unless otherwise required by applicable law: (i)

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to the payment of all necessary actions and expenses incident to the execution of said sale or sales, (ii) to the payment of the Indebtedness in such order as determined by Noteholder, to the amount of the accrued interest and principal legally due thereon and all other sums secured hereby, and to the payment of reasonable attorneys' fees incurred as in the Note provided, and (iii) the remainder, if any, shall be paid to Maker or such other person or persons entitled thereto by law.

(5) **Multiple Sales.** Upon the occurrence and during the continuance of an Event of Default, or any time thereafter, the Noteholder shall have the option to proceed with foreclosure in satisfaction of said Event of Default, either through the courts or to the extent permitted by applicable law by proceeding with foreclosure as provided for in this Mortgage, but without declaring the whole Indebtedness due, and provided that if any sale is made because of such Event of Default, such sale may to the extent permitted by applicable law be made subject to the unmatured part of the Note and Indebtedness secured by this Mortgage, and such sale, if so made, shall not in any manner affect the unmatured part of the Indebtedness secured by this Mortgage, but as to such unmatured part of the Indebtedness this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this paragraph. Several sales may be made under the provisions of this paragraph without exhausting the right of sale for any remaining part of the Indebtedness whether then matured or unmatured, the purpose hereof to provide for a foreclosure and sale of the Mortgaged Property for any matured part of the Indebtedness without exhausting any power of foreclosure and the power to sell the Mortgaged Property for any other part of the Indebtedness, whether matured at the time or subsequently maturing.

(6) **Waiver of Appraisement Laws.** MAKER AGREES TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW THAT UPON THE OCCURRENCE AND DURING THE CONTINUANCE OF AN EVENT OF DEFAULT ON ITS PART HEREUNDER, NEITHER MAKER NOR ANYONE CLAIMING THROUGH OR UNDER IT SHALL OR WILL SET UP, CLAIM OR SEEK TO TAKE ADVANTAGE OF ANY APPRAISEMENT, VALUATION, STAY, EXTENSION OR REDEMPTION LAWS NOW OR HEREAFTER IN FORCE, IN ORDER TO PREVENT OR HINDER THE ENFORCEMENT OR FORECLOSURE OF THIS MORTGAGE, OR THE ABSOLUTE SALE OF THE MORTGAGED PROPERTY OR THE FINAL AND ABSOLUTE PUTTING INTO POSSESSION THEREOF, IMMEDIATELY AFTER SUCH SALE, OF THE PURCHASERS THEREAT, AND MAKER, FOR ITSELF AND ALL WHO MAY AT ANY TIME CLAIM THROUGH OR UNDER IT, HEREBY WAIVES, TO THE FULL EXTENT THAT IT MAY LAWFULLY SO DO, THE BENEFIT OF ALL SUCH LAWS, AND ANY AND ALL RIGHT TO HAVE THE ASSETS COMPRISING THE MORTGAGED PROPERTY MARSHALLED UPON ANY FORECLOSURE OF THE LIEN HEREOF AND AGREES THAT NOTEHOLDER OR ANY COURT HAVING JURISDICTION TO FORECLOSE SUCH LIEN MAY SELL THE MORTGAGED PROPERTY IN PART OR AS AN ENTIRETY.

(7) **Prerequisites of Sales.** In case of any foreclosure sale of the Mortgaged Property, all prerequisites to the sale shall be presumed to have been performed, and in any conveyance given hereunder, all statements of facts, or other recitals therein made as to the nonpayment of money secured or as to the request of Noteholder to enforce this Mortgage, or as to the proper

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and due appointment of any designee by Noteholder, or as to the advertisement of sale, or time, place and manner of sale, or as to any other preliminary fact or thing, shall be taken in all courts of law or equity as prima facie evidence that the facts so stated or recited are true.

(8) Suits to Protect the Mortgaged Property. Noteholder shall have the power and authority to institute and maintain any lawful suits and proceedings as Noteholder may deem reasonably advisable (1) to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (2) to preserve or protect its interest in the Mortgaged Property and (3) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order might impair the security hereunder or be prejudicial to Noteholder's interest.

(9) Proofs of Claim. In the case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceedings affecting Maker, any person, partnership or corporation guaranteeing or endorsing any of Maker's obligations, its creditors or its Mortgaged Property, Noteholder, to the extent permitted by applicable law, shall be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have its claims allowed in such proceedings for the entire amounts due and payable by Maker under the Note, this Mortgage or the other Loan Documents, at the date of the institution of such proceedings, and for any additional amounts which may become due and payable by Maker after such date.

(10) Delay or Omission No Waiver. No delay or omission of Noteholder or of any holder of the Note to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or shall be construed to waive any such Event of Default or to constitute acquiescence therein except to the extent prohibited by applicable law. Every right, power and remedy given to Noteholder may be exercised from time to time and as often as may be deemed expedient by Noteholder.

(11) No Waiver of One Default to Affect Another. No waiver of any Event of Default hereunder shall extend to or affect any subsequent or any other Event of Default then existing, or impair any rights, powers or remedies consequent thereon. If Noteholder (1) grants forbearance or an extension of time for the payment of any sums secured hereby; (2) takes other or additional security for the payment thereof; (3) waives or does not exercise any right granted in the Note, this Mortgage or the other Loan Documents; (4) releases any part of the Mortgaged Property from the lien of this Mortgage or any other instrument securing the Note; (5) consents to the filing of any map, plat or survey of the Mortgaged Premises; (6) consents to the granting of any easement on the Mortgaged Premises; or (7) makes or consents to any agreement changing the terms of this Mortgage or subordinating the lien or any charge hereof, no such act or omission shall release, discharge, modify, change or affect the original liability under the Note, this Mortgage, the other Loan Documents or otherwise of Maker, or any subsequent purchaser of the Mortgaged Property or any part thereof or any Maker, cosigner, endorser, surety or guarantor. No such act or omission shall preclude Noteholder from exercising any right, power or privilege herein granted or intended to be granted in case of any Event of Default then existing or of any subsequent Event of Default nor, except as otherwise expressly provided in an instrument or

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instruments executed by Noteholder, shall the lien of this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, Noteholder, without notice to any person, firm or corporation, is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the Indebtedness secured hereby, or with reference to any of the terms or conditions hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any of the liabilities or undertakings hereunder.

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

(13) Remedies Cumulative. No right, power or remedy conferred upon or reserved to Noteholder by the Note, this Mortgage or the other Loan Documents is exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder or under the Note, this Mortgage or the other Loan Documents, or now or hereafter existing at law, in equity or by statute.

X. USE OF INSURANCE PROCEEDS.

10.1 Holding of Proceeds. Notwithstanding the provisions of Article VI, Section C, any insurance proceeds paid to Noteholder will be first applied in payment of the expenses, if any, incurred by Noteholder in the collection of said insurance proceeds and the balance, if any, will be held and disbursed by Noteholder in accordance with the following provisions:

A. (1) Should there exist an Event of Default at the time of the casualty or should there occur at any time thereafter an Event of Default; (2) should either the tenants of more than 193,433 square feet of the leasable area (cumulatively) of the Mortgaged Property or the Maker terminate leases for more than 193,433 square feet of the leasable area (cumulatively) of the Mortgaged Property as a result of said damage, or, whether or not a result of such damages, at any time prior to the commencement of reconstruction (provided that if the aforementioned items (i) or (ii) occur during the last twelve (12) months of the term of the Loan, the commencement of reconstruction shall have no effect on Noteholder's rights); (3) should any insurance proceeds be remaining after the completion of all restoration work; or (4) should Maker fail to comply with the requirements for disbursing the insurance proceeds that have been made available to Maker, then in any of the said events, Noteholder may, at its option, apply the insurance proceeds on the Indebtedness, in any order and whether due or not, without any prepayment premium unless an Event of Default is continuing, or to the restoration of the Mortgaged Property, or to be released to Maker, but any such application or release shall not cure or waive any default.

B. If the insurance proceeds have not been disbursed under the provisions of subparagraph A hereof, or if under subparagraph A Noteholder elects to permit the insurance

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proceeds to be used for restoration of the Mortgaged Property, the proceeds will be held and disbursed as follows:

(1) Should the insurance proceeds be less than \$25,000.00, Maker shall immediately commence and complete the work of restoring the damaged property, or cause the same to be commenced and completed, and Noteholder will disburse the portion of the insurance proceeds to pay actual costs to replace, repair and restore the damaged property to Maker if the following conditions are met: (i) there is no outstanding Event of Default, (ii) Noteholder has approved of the scope of the restoration work to be completed, and (iii) Maker has provided, and Noteholder has approved of, an estimate of the costs and expenses of the work to be completed. If the above conditions are met, Noteholder shall deposit the insurance proceeds into an account with Noteholder or Noteholder's servicer, as applicable, and the proceeds shall be disbursed to Maker pro rata in accordance with the completion schedule.

(2) Should the insurance proceeds equal or be in excess of \$25,000.00, but less than \$100,000.00, Maker shall cause plans and specifications ("Plans") for the restoration of the damaged property to be submitted to Noteholder for approval, which approval shall not be unreasonably withheld, conditioned or delayed. Upon receipt of Noteholder's approval, Maker shall forthwith commence and complete the restoration of the damaged property in accordance with the approved Plans or cause the same to be commenced and completed. Noteholder will disburse the portion of the insurance proceeds to pay the actual costs to repair and restore the damaged property to Maker if the following conditions are met: (i) there is no outstanding Event of Default, (ii) Noteholder has approved of the Plans, and (iii) Maker has provided, and Noteholder has approved of, an estimate of the costs and expenses of the work to be completed. If the above conditions are met, Noteholder shall deposit the insurance proceeds into an account with Noteholder or Noteholder's servicer, as applicable, and the proceeds shall be disbursed to Maker pro rata in accordance with the completion schedule.

(3) If the insurance proceeds are equal or in excess of \$100,000.00: Plans for the restoration of the damaged property and a cost estimate will both be prepared by an architect employed by Maker or its tenant and acceptable to Noteholder. The Plans and cost estimates will be submitted to Noteholder for approval, which approval shall not be unreasonably withheld, conditioned or delayed. Upon receipt of Noteholder's approval, Maker will promptly commence and diligently pursue the restoration work in accordance with the approved Plans or cause the same to be commenced and diligently pursued. The insurance proceeds are hereinafter called "Construction Funds". The Construction Funds will be made available to Maker as restoration repair work progresses pursuant to certificates of the architect approved by Noteholder, submitted not more than once every thirty (30) days. There shall be delivered to Noteholder such other evidences as Noteholder may reasonably request, from time to time, during the restoration work, as to the progress of the work, the compliance with the approved Plans, the total cost of restoration work to date of request, the total cost needed to complete the restoration work, lien waivers or evidence of no liens against the Mortgaged Property. If at any time during the course of the restoration work, Noteholder learns of facts concerning the restoration work which is materially adverse to Noteholder, or nonpayment of mechanics and materialmen, or inaccuracy of any information furnished with respect to it, Noteholder may withhold the disbursement of funds until such time as it is prudent to continue to disburse the

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Construction Funds or may determine not to make any further disbursements of the Construction Funds and instead to apply all such funds remaining to the payment of the Indebtedness then outstanding, whether due or not at such time, without any prepayment premium, and in such order as determined by Noteholder.

C. Noteholder shall not be required to hold any funds received by it described in this Article X in any account special or separate from Noteholder's general account. No such funds shall be required to be placed in any interest bearing account, and any interest earned thereon shall constitute additional insurance proceeds to be applied as provided in this Mortgage.

XI. SPECIAL CONDITIONS.

This document is expressly made subject to the following special conditions.

11.1 Reserved.

11.2 Waiver and Election. The exercise of any right or remedy by Noteholder shall not be considered as a waiver of any right or remedy nor shall any acceptance by Noteholder of Maker's partial payment or partial performance of obligations under the Note or hereunder, nor shall any failure or delay by Noteholder in exercising any of its rights or remedies as to any Event of Default which may occur, operate as a waiver by Noteholder of its rights or remedies with respect to the occurrence of any other or further Event of Default or to the recurrence of the same Event of Default. The filing of a suit to foreclose the Mortgage granted by this Mortgage either on any matured portion of the Indebtedness or for the whole of the Indebtedness, shall never be considered an election so as to preclude foreclosure under power of sale (to the extent permitted under applicable law) after a dismissal of the suit; nor shall the filing of the necessary notices for foreclosure, as provided in this Mortgage to the extent permitted by applicable law, preclude the exercise by Noteholder of any other right or remedy including, without limitation, the prosecution of a later suit thereon.

11.3 Landlord-Tenant Relationship. Any sale of all or a portion of the Mortgaged Property under this Mortgage shall, without further notice, to the extent permitted by applicable law create the relationship of landlord and tenant at sufferance between the purchaser and Maker and any person or entity claiming an interest in the Mortgaged Property through Maker or otherwise occupying any of the Mortgaged Property, upon failure to surrender possession thereof, Maker and all such persons and entities may to the extent permitted by applicable law be removed by a writ of possession upon suit by the purchaser.

11.4 Usury. Notwithstanding any provision in this Mortgage to the contrary, it is expressly provided that in no case or event should the aggregate amounts, which by applicable law are deemed to be interest with respect to this Mortgage, the Note or any document securing, evidencing or relating to the Note ever exceed the "Maximum Non-Usurious Rate" (as defined in the Note). In this connection, it is expressly stipulated and agreed that it is the intention of Noteholder and the Maker to contract in strict compliance with applicable usury laws of the State of Texas and/or of the United States (whichever permits the higher rate of interest) from time to time in effect. Nothing in this Mortgage, the Note or any document securing, evidencing or

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relating to the Note shall ever be construed to create a contract to pay, as consideration for the use, forbearance or detention of money, interest at a rate in excess of the Maximum Non-Usurious Rate. If under any circumstances the aggregate amounts contracted for, charged or paid with respect to the Note which by applicable law are deemed to be interest, would produce an interest rate greater than the Maximum Non-Usurious Rate, the Maker and any other person obligated to pay the Note, stipulates that the amounts will be deemed to have been paid, charged or contracted for as a result of an error on the part of Maker, any other person obligated for the payment of the Note and the Noteholder and upon discovery of the error or upon notice thereof from the Maker or the party making such payment, the Noteholder or the party receiving such excess payment shall, at its option, refund the amount of such excess payment or credit the excess payment against any other amount due under the Note. In addition, all sums paid or agreed to be paid to the holder of the Note for the use, forbearance or detention of monies shall be, to the extent permitted by applicable law, amortized, prorated, allocated and spread through the term of the Note. At all times, if any, as Title Four of the Texas Finance Code or other applicable law shall establish the Maximum Non-Usurious Rate, the Maximum Non-Usurious Rate shall be the "weekly ceiling" (as defined in Title Four of the Texas Finance Code or such other applicable law) from time to time in effect; but the Noteholder may from time to time, as to current or future balances, implement any other ceiling under such Title or revise the index, formula or the provisions of law used to compute the Maximum Non-Usurious Rate by notice to the Maker, if and to the extent permitted by, in the manner in, such Title or other applicable law.

11.5 Enforceability. If any provision hereof is presently or at any time becomes invalid or unenforceable, the other provisions hereof shall remain in full force and effect, and the remaining provisions hereof shall be construed in favor of Noteholder to effectuate the provisions hereof.

11.6 Application of Payments. If the lien or liens created by this Mortgage are invalid or unenforceable as to any part of the Indebtedness or if such lien or liens are invalid or unenforceable as to any part of the Mortgaged Property, the unsecured or partially unsecured portion of the Indebtedness shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Indebtedness and all payments made on the Indebtedness, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Indebtedness which is not secured or not fully secured by the lien or liens created herein.

11.7 Meaning of Particular Terms. Whenever used, the singular number shall include the plural, the plural shall include the singular and the use of any gender shall include all genders. The words "Maker" and "Noteholder" shall include each of their heirs, executors, administrators, successors and assigns. For convenience of drafting the following groups of words, and derivations thereof, are used interchangeably and any reference to one or more shall include the others notwithstanding anything seemingly to the contrary: (a) the words "act", "omission" and "occurrence"; and (b) "instrument" and "document".

11.8 Advances by Noteholder. If Maker shall fail to comply with the provisions with respect to the securing of insurance, payment of taxes, assessments, and other charges, the keeping of the Mortgaged Property in repair, or any other term or covenant herein contained,

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Noteholder may, but shall not be obligated to, incur such expenses as deemed necessary by Noteholder, and make advances to perform such provisions, terms or covenants, and where necessary enter the Mortgaged Property, subject to the rights of tenants and other occupants of the Mortgaged Property, for the purpose of performing any such term or covenant. Noteholder is further empowered, but not obligated, to make advances for any expenditure deemed advisable by Noteholder for the preservation of the Mortgaged Property or for the continuation of the operation thereof. Maker agrees to repay all sums so advanced or expended, and all fees and expenses incurred by Noteholder in connection with the exercise of any of Noteholder's rights under this Mortgage, upon demand, with interest from the date such advances or expenditures are made, determined on the same basis as matured principal in the Note and all sums so advanced or expended, with interest, shall be secured hereby.

11.9 Release or Extension by Noteholder. Noteholder, without notice, may release any part of the Mortgaged Property or any person liable for the Indebtedness without in any way affecting the liens hereof on any part of the Mortgaged Property not expressly released and may agree in writing with any party with an interest in the Mortgaged Property to extend the time for payment of all or any part of the Indebtedness or to waive the prompt and full performance of any term, condition or covenant of any document securing, evidencing or relating to the Indebtedness.

11.10 Partial Payments. Acceptance by Noteholder of any payment of less than the amount due on the Indebtedness shall be deemed acceptance on account only and the failure to pay the entire amount then due shall be and continue to be a default; and at any time thereafter and until the entire amount due on the Indebtedness has been paid, Noteholder shall be entitled to exercise all rights conferred on it by the terms of this Mortgage upon the occurrence of an Event of Default.

11.11 Titles not to be Considered. All section, subsection, paragraph or other titles contained in this Mortgage are for reference purposes only and this Mortgage shall be construed without reference to said titles.

11.12 Construction of Agreement. This Mortgage may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and the purposes and agreements herein set forth.

11.13 Additional Taxes and Indemnification. Maker agrees that if any state, federal or municipal government, or any of its subdivisions having jurisdiction, shall levy, assess or charge any tax, assessment or imposition upon this Mortgage or the credit or indebtedness secured hereby or the Note or the interest of Noteholder in the Mortgaged Premises or upon Noteholder by reason of any of the foregoing (excepting therefrom any income tax on interest payments on the principal portion of the Indebtedness secured hereby) then, Maker shall pay all such taxes to or for Noteholder prior to delinquency, and provided further that in the event of passage of any law or regulation permitting, authorizing or requiring the tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Maker from paying the tax, assessment or imposition, to or for Noteholder, then all sums hereby secured shall become

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immediately due and payable at the option of the Noteholder. Maker agrees to exhibit to Noteholder promptly upon request, official receipts showing payment of all taxes, assessments and charges which Maker is required or elects to pay hereunder. Maker agrees that if the United States Government or any department or bureau thereof shall at any time require revenue stamps to be affixed to the Note or this Mortgage, Maker will upon demand pay for stamps in the required amount and deliver them to Noteholder and Maker agrees to INDEMNIFY AND HOLD HARMLESS NOTEHOLDER AGAINST LOSS, DAMAGE, LIABILITY OR ACTUAL, OUT-OF-POCKET, THIRD PARTY EXPENSE (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND INVESTIGATORY EXPENSES) ON ACCOUNT OF SUCH REVENUE STAMPS, WHETHER SUCH LOSS, DAMAGE, LIABILITY OR EXPENSE ARISES BEFORE OR AFTER PAYMENT OF THE NOTE AND ANY TERMINATION OF THE ESTATE CREATED BY THIS MORTGAGE WHETHER AS A RESULT OF THE EXERCISE BY NOTEHOLDER OF ANY DEFAULT REMEDIES AVAILABLE TO IT AT LAW OR IN EQUITY OR OTHERWISE; SUCH INDEMNITY AND HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE ORDINARY OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE, OF AN INDEMNITEE, BUT SUCH INDEMNITY AND HOLD HARMLESS SHALL NOT APPLY TO THE EXTENT THAT SUCH LOSS, DAMAGE, EXPENSE OR LIABILITY IS CAUSED BY OR ATTRIBUTABLE TO NOTEHOLDER'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

11.14 Indemnification. MAKER AGREES TO INDEMNIFY AND HOLD HARMLESS NOTEHOLDER FROM AND AGAINST ANY AND ALL LOSS, DAMAGE AND ACTUAL, OUT-OF-POCKET, THIRD PARTY EXPENSE, INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND INVESTIGATORY EXPENSES, INCURRED IN CONNECTION WITH ANY SUIT OR PROCEEDING IN OR TO WHICH NOTEHOLDER MAY BE MADE A PARTY FOR THE PURPOSE OF PROTECTING THE LIEN OF THIS MORTGAGE, EVEN IF SUCH LOSS, COST, LIABILITY OR EXPENSE RESULT FROM OR ARE ATTRIBUTABLE TO THE SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE, OF NOTEHOLDER, EXCEPT TO THE EXTENT CAUSED BY THE FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF NOTEHOLDER; SUCH INDEMNITY AND HOLD HARMLESS SPECIFICALLY INCLUDES ANY LOSS, DAMAGE, EXPENSE OR LIABILITY CAUSED BY OR ATTRIBUTABLE TO THE ORDINARY OR SIMPLE NEGLIGENCE, AS OPPOSED TO THE GROSS NEGLIGENCE, OF NOTEHOLDER, but such indemnity and hold harmless shall not apply to the extent that such loss, damage, expense or liability is caused by or attributable to Noteholder's gross negligence or willful misconduct. Maker's obligations pursuant to the foregoing indemnity and hold harmless shall survive any termination of the estate created by this Mortgage whether as a result of the exercise by Noteholder of any default remedies available to it at law or in equity or otherwise.

11.15 Additional Documents; Estoppel. Maker agrees that upon request of Noteholder it will from time to time execute, acknowledge and deliver all such additional documents and further assurances of title and will do or cause to be done all such further acts and things as may be reasonably necessary fully to effectuate the intent of this Mortgage, provided that such

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additional documents and further assurances do not materially increase the obligations or materially decrease the rights of Maker under the Loan Documents. Each of Noteholder and Maker within ten (10) Business Days upon request in person or by mail from the other party will furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against the debt secured hereby, or, if such offsets or defenses are alleged to exist, the nature thereof.

11.16 Disclosure. Maker agrees to disclose to Noteholder upon request, the then current ownership of the beneficial interest in any entity which then holds legal title to any portion of the Mortgaged Property and shall cause the owner(s) of such beneficial interest to furnish sufficient evidence to Noteholder for it to determine the identity of all of the parties which compose such owner(s).

11.17 Subrogation. In the event the Note is given for money advanced in the payment of a sum owing upon another note or indebtedness, Maker hereby acknowledges that it has requested and does hereby request Noteholder to advance the money necessary to pay such note or indebtedness, whether or not a release or transfer of said other note or indebtedness has been or will be executed by the owner and holder thereof, and Maker hereby agrees that Noteholder and Noteholder's assigns shall be, and are hereby, subrogated to any and all the rights, liens, remedies, equities, superior title and benefits held, owned, possessed or enjoyed at any time by any owner or holder of said other note or indebtedness, to secure payment to Noteholder of the Note hereby secured and, accordingly, any such other note and indebtedness, and all liens securing same are hereby extended to the maturity date of the Note hereby secured in order to additionally secure such Note. Nothing in this Section 11.17 shall alter any obligation of maker hereunder or under the Note.

11.18 Time. Time is of the essence of this Mortgage.

11.19 Multiple Counterparts. This Mortgage may be executed in multiple counterparts, each of which shall be an original document and which, taken together, constitute one and the same agreement.

11.20 Waiver of Deficiency Statute.

a. Waiver. In the event an interest in any of the Mortgaged Property is foreclosed upon pursuant to a judicial or non-judicial foreclosure sale, Maker agrees as follows: notwithstanding the provisions of Sections 51.003, 51.004, and 51.005 of the Texas Property Code (as the same may be amended from time to time), and only if a waiver of the provisions of Sections 51.003, 51.004 and 51.005 of the Texas Property Code is permitted by law and otherwise to the maximum extent permitted by law, Maker agrees with respect to Maker, that, subject to Article XII, Noteholder shall be entitled to seek a deficiency judgment from Maker and any other party obligated on the Note equal to the difference between the amount owing on the Note and the amount for which the Mortgaged Property was sold pursuant to judicial or non-judicial foreclosure sale. Maker expressly recognizes that, to the extent permitted by applicable law, this section constitutes a waiver of the above-cited provisions which would otherwise permit

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Maker and other persons against whom recovery of deficiencies is sought or Guarantor independently (even absent the initiation of deficiency proceedings against them) to present competent evidence of the fair market value of the Mortgaged Property as of the date of the foreclosure sale and offset against any deficiency the amount by which the foreclosure sale price is determined to be less than such fair market value. Maker further recognizes and agrees that, to the extent permitted by applicable law, this waiver creates an irrebuttable presumption that the foreclosure sale price is equal to the fair market value of the Mortgaged Property for purposes of calculating deficiencies owed by Maker, Guarantor and others against whom recovery of a deficiency is sought.

b. Alternative to Waiver. Alternatively, in the event the waiver provided for in the subsection above is determined by a court of competent jurisdiction to be unenforceable, to the maximum extent permitted by law the following shall be the basis for the finder of fact's determination of the fair market value of the Mortgaged Property as of the date of the foreclosure sale: (i) the Mortgaged Property shall be valued in an "as is" condition as of the date of the foreclosure sale, without any assumption or expectation that the Mortgaged Property will be repaired or improved in any manner before a resale of the Mortgaged Property after foreclosure; (ii) the valuation shall be based upon an assumption that the foreclosure purchaser desires a resale of the Mortgaged Property for cash promptly (but no later than twelve [12] months) following the foreclosure sale; (iii) all reasonable closing costs customarily borne by seller in commercial real estate transactions should be deducted from the gross fair market value of the Mortgaged Property, including, without limitation, brokerage commissions, title insurance, a survey of the Mortgaged Property, tax prorations, attorneys' fees, and marketing costs; (iv) the gross fair market value of the Mortgaged Property shall be further discounted to account for any estimated holding costs associated with maintaining the Mortgaged Property pending sale, including, without limitation, utilities expenses, property management fees, taxes and assessments (to the extent not accounted for in (iii) above), and other maintenance, operational and ownership expenses; and (v) any expert opinion testimony given or considered in connection with a determination of the fair market value of the Mortgaged Property must be given by persons having at least ten (10) years' experience in appraising property in Illinois similar to the Mortgaged Property and who have conducted and prepared a complete written appraisal of the Mortgaged Property taking into consideration the factors set forth above.

11.21 Jury Trial Waiver. MAKER RECOGNIZES THAT DISPUTES ARISING OUT OF THE LOAN TRANSACTION SECURED BY THIS MORTGAGE ARE LIKELY TO BE COMPLEX AND WISH TO STREAMLINE AND MINIMIZE THE COST OF THE DISPUTE RESOLUTION PROCESS BY AGREEING TO WAIVE ITS RIGHT TO JURY TRIAL. TO THE EXTENT PERMITTED BY APPLICABLE LAW, MAKER HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM THAT RELATES TO OR ARISES OUT OF ANY OF THE LOAN DOCUMENTS OR THE ACTS OR FAILURE TO ACT OF OR BY NOTEHOLDER IN THE ENFORCEMENT OF ANY OF THE TERMS OR PROVISIONS OF THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS.

11.22 Notices. All notices or other communications required or permitted to be given pursuant to this Mortgage shall be in writing and shall be considered as properly given (i) if

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mailed by first class United States mail, postage prepaid, registered or certified with return receipt requested; (ii) by delivering same in person to the intended addressee; or (iii) by delivery to a reputable independent third party commercial delivery service for same day or next day delivery and providing for evidence of receipt at the office of the intended addressee. Notice so mailed shall be effective three (3) business days following its deposit with the United States Postal Service or any successor thereto; notice given by personal delivery shall be effective only if and when actually received by the addressee; and notice sent by such a commercial delivery service shall be effective upon delivery to the addressee. Such notices in order to be effective shall also be addressed to the applicable party at the respective address provided in this Mortgage, or such other address as may from time to time be designated by written notice given as herein required at least thirty (30) days in advance and expressly specifying that such notice contains a new address for notices under this Mortgage and the other Loan Documents.

11.23 Conflict with Note. In the event of any inconsistencies between the provisions of this Mortgage and the Note, the provisions of the Note shall control.

11.24 Governing Law. This Mortgage was negotiated and delivered in, and shall be governed by and construed according to the substantive laws and judicial decisions of, the State of Texas (without reference to Texas conflict of laws principles and regardless of the location, residence, domicile or place of business of Maker or any present or future principal thereof) and applicable federal laws, rules and regulations. Notwithstanding the foregoing choice of law provision: (a) the laws of Illinois shall govern the creation, perfection and priority of liens upon and security interests in the Mortgaged Property located in the State of Illinois, and the procedures regarding the enforcement by Noteholder of its foreclosure and other remedies with respect thereto, including, by way of example, judicial foreclosure proceedings or the appointment of a receiver; and (b) provisions of Illinois law shall apply in defining the legal requirements (including environmental laws, rules and regulations) applicable to the Mortgaged Property. Nothing contained herein or in the other Loan Documents shall be construed to provide that the substantive laws of the State of Illinois shall apply to the parties' other rights and obligations under any of the Loan Documents, which, except as expressly provided in the foregoing clauses (a) and (b) or elsewhere in the Loan Documents, shall be governed by the substantive law of the State of Texas. The fact that portions of the Loan Documents may include provisions drafted to conform to the law of the State of Illinois is not intended in any way to derogate from the choice of law provisions set forth herein or in the other Loan Documents. Notwithstanding the foregoing, in the event that the enforceability or validity of any provision of this Mortgage or any other Loan Document is challenged or questioned, such provision shall be governed by whichever applicable state or federal law would uphold or enforce such challenged or questioned provision. The loan transaction that is secured by this Mortgage has been applied for, considered, approved and made, and all necessary loan documents have been accepted by Noteholder, in the State of Texas. All actions or proceedings relating to the Indebtedness (including any action for a deficiency) shall be brought in the venue described in the Note.

11.25 Costs of Enforcement. Maker shall pay all expenses (including attorneys' fees and expenses) of or incidental to the perfection and enforcement of this Mortgage and the other Loan Documents, or the enforcement, compromise or settlement of the Indebtedness or any claim under this Mortgage and the other Loan Documents, or for defending or asserting the

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rights and claims of Noteholder in respect thereof, by litigation or otherwise.

11.26 Waivers by Maker. To the fullest extent permitted by law, Maker hereby waives and agrees not to assert or take advantage of:

- a. Any right to require Noteholder to proceed against any other person or to proceed against or exhaust any security held by Noteholder, under this Mortgage or otherwise, at any time or to pursue any other remedy in Noteholder's power or under any other agreement before proceeding against Maker hereunder;
- b. Any defense that may arise by reason of the incapacity, lack of authority, death or disability of any other person or persons or the failure of Noteholder to file or enforce a claim against the estate (in administration, bankruptcy or any other proceeding) of any other person or persons;
- c. Any demand, presentment for payment, notice of nonpayment, protest, notice of protest and all other notices of any kind, or the lack of any thereof, including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of any new or additional indebtedness or obligation or of any action or non-action on the part of Noteholder, any endorser or creditor of Maker or any other person whomsoever under this or any other instrument in connection with any obligation or evidence of indebtedness held by Noteholder;
- d. Any defense based upon an election of remedies by Noteholder;
- e. Any principle or provision of law, statutory or otherwise, which is or might be in conflict with the terms and provisions of this Mortgage;
- f. Any duty on the part of Noteholder to disclose to Maker any facts Noteholder may now or hereafter know about the Mortgaged Property, regardless of whether Noteholder has reason to believe that any such facts materially increase the risk beyond that which Maker intends to assume or has reason to believe that such facts are unknown to Maker or has a reasonable opportunity to communicate such facts to Maker, it being understood and agreed that Maker is fully responsible for being and keeping informed of the condition to the Mortgaged Property and of any and all circumstances bearing on the risk that liability may be incurred by Maker hereunder;
- g. Any lack of notice of disposition or of manner of disposition of any Collateral;
- h. Any invalidity, irregularity or unenforceability, in whole or in part, of any one or more of the Loan Documents;
- i. Any lack of commercial reasonableness in dealing with the Collateral;
- j. Any deficiencies in the Collateral or any deficiency in the ability of Noteholder to collect or to obtain performance from any persons or entities now or hereafter liable for the payment and performance of any obligation guaranteed under this Mortgage or any other Loan Document;

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k. Any assertion or claim that the automatic stay provided by 11 U.S.C. 362 (arising upon the voluntary or involuntary bankruptcy proceeding of Maker) or any other stay provided under any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, which may be or become applicable, shall operate or be interpreted to stay, interdict, condition, reduce or inhibit the ability of Noteholder to enforce any of its rights, whether now or hereafter required, which Noteholder may have against Maker or the Collateral;

l. Any modifications of the Loan Documents or any obligation of Maker relating to the Loan by operation of law or by action of any court, whether pursuant to the Bankruptcy Reform Act of 1978, as amended, or any other debtor relief law (whether statutory, common law, case law or otherwise) of any jurisdiction whatsoever, now or hereafter in effect, or otherwise; and

m. Any action, occurrence, event or matter consented to by Maker under any provision hereof or otherwise.

11.27 Business Loan. The proceeds of the indebtedness secured hereby referred to herein shall be used solely for business purposes and in furtherance of the regular business affairs of Maker, and the entire principal obligation secured by this Mortgage constitutes (i) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4(1)(c), and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1). Maker further warrants and represents to Noteholder that (i) all loans evidenced by the Note shall be "business loans" as that term is used in the Depository Institutions Deregulatory and Monetary Control Act of 1980, as amended, (ii) that this transaction is specifically exempt under Section 226.3 (a) of Regulation Z issued by the Board of Governors of the Federal Reserve System, and Title I and Title V of the Consumer Credit Protection Act, and (iii) that such loans are for business, commercial, investment or other similar purposes and not primarily for personal, family, household or agricultural use as such terms are used in the Texas Credit Code and/or the Texas Finance Code.

11.28 Illinois State Provisions.

(a) The provisions of this Section 11.28 are an integral part of this Mortgage and in the event of any inconsistencies between the terms and conditions of any other paragraph or provision of this Mortgage and this Section 11.28, the terms and conditions of this Section 11.28 shall control.

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

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

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manner consistent with the Act.

(ii) If any provision of this Mortgage shall grant to Noteholder any rights or remedies upon default of Maker which are more limited than the rights that would otherwise be vested in Noteholder under the Act in the absence of said provision, Noteholder shall be vested with the rights granted in the Act to the full extent permitted by law.

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

(iv) Wherever provision is made in this Mortgage for insurance policies to bear Noteholder clauses or other loss payable clauses or endorsements in favor of Noteholder, or to confer authority upon to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of the Noteholder shall continue in the Noteholder as judgment creditor or Noteholder until confirmation of sale;

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

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

(vii) Maker hereby voluntarily and knowingly waives its statutory rights to reinstatement and redemption pursuant to 735 ILCS Section 5/15-1601(b).

(viii) All advances, disbursements and expenditures made or incurred by Noteholder before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage or by the Act (collectively "Protective Advances") shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred

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to:

- (1) all advances by Noteholder in accordance with the terms of the Mortgage to: (i) preserve, maintain, repair, restore or rebuild the improvements upon the Mortgaged Property; (ii) preserve the lien of the Mortgage or the priority thereof; or (iii) enforce the Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;
- (2) payments by Noteholder of (i) principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrances; (ii) 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 Mortgaged Property or any part thereof; (iii) other obligations authorized by the 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 Act;
- (3) advances by Noteholder in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;
- (4) reasonable attorneys' fees and other costs incurred: (i) in connection with the foreclosure of the Mortgage as referred to in Section 5/15-1504(d)(2) and 5/15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against the Noteholder for the enforcement of the Mortgage or arising from the interest of the Noteholder hereunder; or (iii) in preparation for or in connection with the commencement, prosecution or defense of any other action related to the Mortgage or the Mortgaged Property;
- (5) Noteholder's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearings as referred to in Section 5/15-1508(b)(1) of the Act;
- (6) expenses deductible from proceeds of sale as referred to in Section 5/15-1512(a) and (b) of the Act; and
- (7) expenses incurred and expenditures made by Noteholder for any one or more of the following: (i) if the Mortgaged Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Maker's interest in the Mortgaged Property 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 Noteholder whether or not Noteholder 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 Noteholder takes possession of the Mortgaged Property imposed by Section 5/15-1704(c)(1) of the Act; (iv) repair or

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restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments deemed by Noteholder to be required for the benefit of the Mortgaged Property or required to be made by the owner of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit or of affecting the Mortgaged Property; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Property is a member in any way affecting the Mortgaged Property; (vii) if the Loan secured hereby is a construction loan, costs incurred by Noteholder for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; (viii) payments required to be paid by Maker or Noteholder pursuant to any lease or other agreement for occupancy of the Mortgaged Property; and (ix) if the Mortgage is insured, payment of FHA or private mortgage insurance required to keep such insurance in force.

(ix) All Protective Advances shall be so much 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 of interest payable after default under the terms of the Notes.

(x) 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)(5) of Section 5/15-1302 of the Act.

(c) This Mortgage secures payment of such additional sums with interest thereon which may hereafter be loaned to Maker by Noteholder or advanced under the any of the Loan Documents securing or evidencing the Loan, even though the aggregate amount outstanding at any time may exceed the original principal balance stated herein and in the Note (provided, however, that the indebtedness secured hereby shall in no event exceed an amount equal to \$52,000,000.00).

(d) Pursuant to the terms of the Collateral Protection Act (815 ILCS 180/1 et seq.), Maker is hereby notified that:

“UNLESS MAKER PROVIDES NOTEHOLDER WITH EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY THIS MORTGAGE, NOTEHOLDER MAY PURCHASE INSURANCE AT NOTEHOLDER'S EXPENSE TO PROTECT NOTEHOLDER'S INTERESTS IN THE MORTGAGED PROPERTY, WHICH INSURANCE MAY, BUT NEED NOT, PROTECT THE INTERESTS OF MAKER. THE COVERAGE PURCHASED BY NOTEHOLDER MAY NOT PAY ANY CLAIM MADE BY MAKER OR ANY CLAIM MADE AGAINST MAKER IN CONNECTION WITH THE MORTGAGED PROPERTY. MAKER MAY LATER CANCEL ANY INSURANCE PURCHASED BY NOTEHOLDER, BUT ONLY AFTER PROVIDING NOTEHOLDER WITH EVIDENCE THAT MAKER HAS OBTAINED THE INSURANCE AS REQUIRED HEREUNDER. IF NOTEHOLDER PURCHASES INSURANCE, THE MAKER WILL BE RESPONSIBLE FOR THE COSTS OF SUCH INSURANCE, INCLUDING INTEREST AND ANY OTHER CHARGES IMPOSED IN

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CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO THE TOTAL OBLIGATION SECURED HEREBY. THE COSTS OF SUCH INSURANCE MAY BE GREATER THAN THE COST OF INSURANCE MAKER MAY BE ABLE TO OBTAIN FOR ITSELF.”

11.29 Fire and Sprinkler Work. Maker, or Maker’s representative, agent or contractor, has entered into an agreement with The Hill Group and/or Hill Fire Protection in relation to certain work to be performed regarding Fire Protection System Services (the “Fire and Sprinkler Work”) pursuant to that certain agreement dated as of July 26, 2021 (the “Fire and Sprinkler Agreement”). The Fire and Sprinkler Work shall be completed no later than sixty (60) days following the Effective Date (provided that in the event of force majeure delaying such work, the Fire and Sprinkler Work shall be completed no later than ninety (90) days following the Effective Date) and the failure of Maker to complete, or cause to be completed, the Fire and Sprinkler Work by such time shall be an Event of Default hereunder. Maker shall not, and shall not cause or allow any party to, modify, amend, terminate or agree to release any party under the Fire and Sprinkler Agreement without the prior written consent of Noteholder. Maker’s obligations to Noteholder pursuant to this Section 11.29 shall continue until Maker provides to Noteholder evidence that the Fire and Sprinkler Work has been completed to Noteholder’s satisfaction in Noteholder’s sole discretion, and any failure of Maker to comply with this Section 11.29 shall be an Event of Default hereunder. Noteholder shall not be liable for any expenses related to the Fire and Sprinkler Agreement.

11.30 Subordination, Non-Disturbance and Attornment Agreements. Maker hereby agrees and covenants that Maker shall provide to Noteholder, within sixty (60) days after the Effective Date, an executed Subordination, Non-Disturbance and Attornment Agreement (each, an “SNDA”), in form and substance reasonably satisfactory to Noteholder, from each of the following tenants occupying the Mortgaged Property: (a) Ross Dress for Less, Inc., (b) Office Depot, Inc., and (c) Jewel Food Stores, Inc. Maker’s failure to provide Noteholder with an executed SNDA from each such tenant within such sixty (60) day period shall be an Event of Default hereunder.

XII. LIMITATION OF LIABILITY.

Except as otherwise specifically provided below, in the event of a default in the payment of the Note by Maker, or any other default under any of the other Loan Documents, Noteholder’s sole recourse shall be against the Mortgaged Property, and Noteholder shall not be entitled to recover any deficiency judgment against Maker if the foreclosure or recovery of such Mortgaged Property is not sufficient to pay the amount owed by Maker hereunder. The liability of Maker is limited pursuant to Section 13 of the Note. Notwithstanding the foregoing limitation of liability, subject to applicable notice and cure periods, if any, Maker shall be fully liable for the Recourse Carveouts (as defined in the Note).

EXECUTED to be effective as of the Effective Date.

[THE REMAINDER OF THIS PAGE INTENTIONALLY RESERVED]

[Signature appears on following page]

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“MAKER”

AMCAP NORTHPOINT II LLC,
a Delaware limited liability company

By: PG AmCap JV LLC,
a Delaware limited liability company,
its Sole Member

By: AmCap CCN Manager LLC,
a Delaware limited liability company,
its Managing Member

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

By: AmCap, Incorporated,
a Connecticut corporation,
its Managing Member

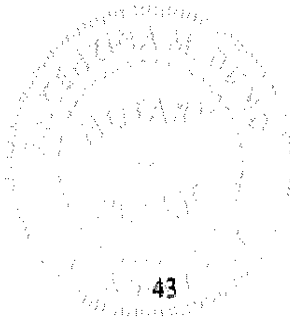
By: *[Signature]*
Jonathan Greenfield,
Treasurer and CFO

STATE OF Connecticut
COUNTY OF Fairfield

§ Stamford

The foregoing instrument was acknowledged before me this 28th day of July, 2021, by Jonathan Greenfield, Treasurer and CFO of AmCap, Incorporated, a Connecticut corporation, the managing member of AmCap Management LLC, a Delaware limited liability company, AmCap CCN Manager LLC, a Delaware limited liability company, the managing member of PG AmCap JV LLC, a Delaware limited liability company, the sole member of AmCap NorthPoint II LLC, a Delaware limited liability company, on behalf of said corporation and limited liability companies.

Vincenzina M. Duno
NOTARY PUBLIC in and for the State of CT



VINCENZINA M. DUNO
NOTARY PUBLIC OF CONNECTICUT
My Commission Expires 7/31/2024

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EXHIBIT "A"

Property Description

LOT 1 OF NORTHGATE SHOPPING CENTER SUBDIVISION OF PART OF THE EAST 1/2 OF THE SOUTHWEST 1/4 OF SECTION 17, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, EXCEPT THAT PART DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1 THENCE SOUTHWARD ALONG THE WESTERLY LINE OF SAID LOT 1, BEING THE EASTERLY LINE OF ARLINGTON HEIGHTS ROAD; SOUTH 1 DEGREES, 50 MINUTES, 41 SECONDS EAST, A DISTANCE OF 73.57 FEET; THENCE SOUTH 00 DEGREES, 17 MINUTES, 45 SECONDS EAST, A DISTANCE OF 470.00 FEET; THENCE SOUTH 13 DEGREES, 57 MINUTES, 59 SECONDS EAST, A DISTANCE OF 40.00 FEET; THENCE SOUTH 33 DEGREES, 05 MINUTES, 01 SECONDS EAST, A DISTANCE OF 37.43 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 33 DEGREES, 05 MINUTES, 01 SECONDS EAST, A DISTANCE OF 7.57 FEET, THENCE SOUTHEASTERLY ALONG A LINE BEING 50.00 FEET NORTHEASTERLY OF AND PARALLEL WITH THE CENTER LINE OF RAND ROAD, SOUTH 48 DEGREES, 24 MINUTES, 05 SECONDS EAST A DISTANCE OF 387.47 FEET, THENCE SOUTH 30 DEGREES 47 MINUTES 20 SECONDS EAST A DISTANCE OF 48.01 FEET; THENCE NORTH 48 DEGREES, 24 MINUTES, 05 SECONDS WEST, A DISTANCE OF 444.74 FEET TO THE POINT OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

Address: 200-470 East Rand Road, Arlington Heights Il 60004

Tax ID Numbers: 03-17-301-017-0000
03-17-301-019-0000
03-17-301-020-0000
03-17-301-021-0000
03-17-301-022-0000

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EXHIBIT "B" Permitted Exceptions

1. Taxes and assessments for the year 2021 and subsequent years, not yet due and payable.
2. Lease made by and between Amcap Northpoint LLC, Lessor, and Ross Dress for Less, Inc., Lessee, dated November 19, 2010, as disclosed by Memorandum of Lease recorded December 15, 2010 as document 1034903005, and the terms, provisions, restrictions and conditions contained therein, and all rights thereunder of and all acts done and suffered thereunder of said lessee or any parties claiming by, through or under said lessee.
3. Lease made by and between Amcap Northpoint, LLC, Lessor, and Office Depot, Inc., Lessee, dated September 1, 2016, as disclosed by Memorandum of Lease recorded September 23, 2016 as document 1626756013, and the terms, provisions, restrictions and conditions contained therein, and all rights thereunder of and all acts done and suffered thereunder of said lessee or any parties claiming by, through or under said lessee; Amended And Restated Memorandum Of Lease dated October 30, 2017 and recorded December 7, 2017 as document number 1734106006.
4. Declaration of Restrictive Covenant dated January 1, 1988 and recorded February, 1988 as document 88046284, made by and between American National Bank and Trust Company of Chicago, as Trustee under Trust agreement dated April 21, 1983 and known as Trust No. 57529, and LaSalle National Bank, as Trustee under Trust Agreement dated October 1, 1961 and known as Trust No. 28684, relating to types of stores maintained on the land, and the terms and provisions contained therein.
5. Easement over the North 25 feet, the Northeasterly 25 feet and the East 25 feet for sanitary sewers, storm sewer, water main, electric, telephone and gas service, as shown on the plat of subdivision recorded March 13, 1968 as document 20429726 and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.
6. A 10 foot easement for sanitary sewer in the Westerly portion of the land, as shown on the plat of subdivision recorded March 13, 1968 as document 20429726 and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.
7. Easement for the installation, maintenance and removal of gas mains, in favor of the Northern Illinois Gas Company, in all platted easement areas, as shown on the plat of subdivision recorded March 13, 1968 as document 20429726 and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.
8. Easement in, upon, under, over and along the 20 foot wide proposed easement area depicted on sketch marked "Exhibit A" and made a part thereof, to install and maintain all equipment for the purpose of serving the land and other property with telephone and electric service, together with right of access to said equipment, as created by Grant of Easement to

Mortgage – Exhibit B

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Commonwealth Edison Company and Illinois Bell Telephone Company, their respective successors and assigns, recorded February 11, 1991 as document 91064682 and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.

9. Easement in favor of Commonwealth Edison Company and the Illinois Bell Telephone Company, d/b/a Ameritech-Illinois, and their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with the right of access to said equipment, and the provisions relating thereto, contained in Utility Easement Agreement recorded November 19, 1997 as document 97866562 affecting the area as shown on Exhibit "A" attached thereto and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.
10. Easement in favor of Commonwealth Edison Company and Illinois Bell Telephone Company, their respective successors and assigns, to install, operate and maintain all equipment necessary for the purpose of serving the land and other property, together with right of access to said equipment, and the provisions relating thereto, contained in grant recorded July 10, 1968 as document 20546396, affecting the land depicted on Exhibit "A" attached thereto and shown on the ALTA/NSPS Land Title Survey dated July 27, 2021, prepared by Jeffrey Glunt, PLS No. 3965 of Haeger Engineering.
11. Information and disclosures contained in Environmental Disclosure Document for Transfer of Real Property recorded October 16, 1990 as document 90506746.
12. An Ordinance Prohibiting the Use of Groundwater as a Potable Water Supply by the Installation or Use of Potable Water Supply Wells or by Any Other Method, one recorded March 20, 2014 as document 1407944004 and one recorded March 31, 2015 as document 1509029011.
13. Environmental No Further Remediation Letter relating to leaking underground storage tank located on the land, recorded October 6, 2015 as document 1527922074, and the terms and conditions thereof.
14. Rights of the public, the municipality and the State of Illinois in and to part of the Land as disclosed by the 5' concrete walk traversing onto the Land along parts of the West boundary line, as disclosed on survey prepared by Jeffrey W. Glunt for Haeger Engineering, dated July 27, 2021 and designated as Job No. 17-010.