

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2121542002 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 08/03/2021 09:07 AM Pg: 1 of 26

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN:** 12-22-308-035-0000

Address:

Street: 9300 King Avenue

Street line 2:

City: Franklin Park

State: IL

ZIP Code: 60131

Lender: Teachers Insurance and Annuity Association of America

Borrower: BSREP III 9300 King Avenue LLC

Loan / Mortgage Amount: \$9,206,537.26

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: B4C96CF2-A56B-4E93-8466-49F582A722E8

Execution date: 6/30/2021

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PREPARED BY & RETURN TO:

DLA Piper LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Attn: Alison M. Mitchell, Esq.

This space reserved for Recorder's use only.

BSREP III 9300 KING AVENUE LLC, a Delaware limited liability company,
as mortgagor
(Mortgagor)

to

TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA,
as mortgagee, in its capacity as Administrative Agent for the Lender from time to time party to
the Loan Agreement defined below
(Administrative Agent)

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

(ILLINOIS – COOK COUNTY)

Dated: As of June 30, 2021

Property Location: 9300 King Avenue, Franklin Park, IL

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This MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*"), made as of June 30, 2021, by BSREP III 9300 KING AVENUE LLC, a Delaware limited liability company, having an address at c/o Brookfield Property Group, 250 Vesey Street, 15th Floor, New York, New York 10281 ("*Mortgagor*") to TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, a New York corporation, having an address at 730 Third Avenue, New York, New York 10017, in its capacity as administrative agent for the Lender (as defined below) from time to time party to the Loan Agreement (as defined below), in such capacity, together with its successors and assigns, "*Administrative Agent*".

Mortgagor, Other Borrowers (as defined below), Administrative Agent, and TEACHERS INSURANCE AND ANNUITY ASSOCIATION OF AMERICA, a New York corporation (together with its successors and assigns, "*Lender*"), have entered into a Loan Agreement dated as of the date hereof (as amended, modified, restated, consolidated or supplemented from time to time, the "*Loan Agreement*") pursuant to which Lender is making a secured loan to Mortgagor and Other Borrowers in the maximum principal amount of up to \$213,225,000.00 (the "*Loan*"). As used herein, "*Other Borrowers*" means, collectively, each "Borrower" that has executed the Loan Agreement other than Mortgagor. Capitalized terms used herein without definition are used as defined in the Loan Agreement. The Loan is evidenced by the Note, which Note has a stated maturity date of July 9, 2025, subject to extension to July 9, 2026 in accordance with the terms of the Loan Agreement.

To secure the payment of the Note and all sums which may or shall become due thereunder or under any of the other documents evidencing, securing or executed in connection with the Loan (the Note, this Mortgage, the Loan Agreement, the Other Security Instruments (as hereinafter defined) and such other documents, as any of the same may, from time to time, be modified, amended or supplemented, being hereinafter collectively referred to as the "*Loan Documents*"), including (i) the payment of interest and other amounts which would accrue and become due but for the filing of a petition in bankruptcy (whether or not a claim is allowed against Mortgagor for such interest or other amounts in any such bankruptcy proceeding) or the operation of the automatic stay under Section 362(a) of Title 11 of the United States Code (the "*Bankruptcy Code*"), and (ii) the costs and expenses of enforcing any provision of any Loan Document (all such sums being hereinafter collectively referred to as the "*Debt*"), Mortgagor has inter alia given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, warranted, pledged, assigned and hypothecated and by these presents does hereby give, grant, bargain, sell, alien, enfeoff, convey, confirm, warrant, pledge, assign and hypothecate unto Administrative Agent, **WITH POWER OF SALE** (if any), the land described in Exhibit A (the "*Premises*"), and the buildings, structures, fixtures and other improvements now or hereafter located thereon (the "*Improvements*").

TOGETHER WITH: all right, title, interest and estate of Mortgagor now owned, or hereafter acquired, in and to the following property, rights, interests and estates (the Premises, the Improvements, and the property, rights, interests and estates hereinafter described are collectively referred to herein as the "*Property*"):

(a) all easements, rights-of-way, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development

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rights, rights to oil, gas, minerals, coal and other substances of any kind or character, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances of any nature whatsoever, in any way belonging, relating or pertaining to the Premises and the Improvements; and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road, highway, alley or avenue, opened, vacated or proposed, in front of or adjoining the Premises, to the center line thereof; and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Mortgagor of, in and to the Premises and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(b) all machinery, furniture, furnishings, equipment, computer software and hardware, fixtures (including all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), inventory, materials, supplies and other articles of personal property and accessions thereof, renewals and replacements thereof and substitutions therefor, and other property of every kind and nature, tangible or intangible, owned by Mortgagor, or in which Mortgagor has or shall have an interest, now or hereafter located upon the Premises or the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Premises and the Improvements (hereinafter collectively referred to as the "**Equipment**"), including, any leases of, deposits in connection with, and proceeds of any sale or transfer of any of the foregoing, and the right, title and interest of Mortgagor in and to any of the Equipment that may be subject to any "security interest" as defined in the Uniform Commercial Code, as in effect in the State where the Property is located (the "**UCC**"), superior in lien to the lien of this Mortgage.

(c) all awards or payments, including interest thereon, that may heretofore or hereafter be made with respect to the Premises or the Improvements, whether from the exercise of the right of eminent domain or condemnation (including any transfer made in lieu of or in anticipation of the exercise of such right), or for a change of grade, or for any other injury to or decrease in the value of the Premises or Improvements;

(d) all leases and other agreements or arrangements heretofore or hereafter entered into affecting the use, enjoyment or occupancy of, or the conduct of any activity upon or in, the Premises or the Improvements, including any extensions, renewals, modifications or amendments thereof (hereinafter collectively referred to as the "**Leases**") and all rents, rent equivalents, moneys payable as damages (including payments by reason of the rejection of a Lease in a Bankruptcy Proceeding or in lieu of rent or rent equivalents), royalties (including all oil and gas or other mineral royalties and bonuses), income, fees, receivables, receipts, revenues, deposits (including security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Mortgagor or its agents or employees from any and all sources arising from or attributable to the Premises and the Improvements, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of the Premises or the Improvements, or rendering of services by Mortgagor or any of its agents or employees, and proceeds, if any, from business interruption or other loss of income insurance (hereinafter collectively referred to as the "**Rents**"), together with all proceeds

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from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(e) all proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(f) to the extent assignable, all other agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications, designs, drawings, surveys, title insurance policies, consents, contract rights and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Premises and any part thereof and any Improvements or respecting any business or activity conducted on the Premises and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the occurrence of an Event of Default or as otherwise permitted pursuant to the Loan Documents, to receive and collect any sums payable to Lender thereunder;

(g) subject to Section 5.6 of the Loan Agreement, the right, in the name and on behalf of Mortgagor, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender and Administrative Agent in the Property;

(h) all accounts (including, reserve accounts), escrows, documents, instruments, chattel paper, claims, deposits and general intangibles, as the foregoing terms are defined in the UCC, and all franchises, trade names, trademarks, symbols, service marks, books, records, plans, specifications, designs, drawings, surveys, title insurance policies, permits, consents, licenses, management agreements, contract rights (including any contract with any architect or engineer or with any other provider of goods or services for or in connection with any construction, repair or other work upon the Property), approvals, actions, refunds of real estate taxes and assessments (and any other governmental impositions related to the Property) and causes of action that now or hereafter relate to, are derived from or are used in connection with the Property, or the use, operation, maintenance, occupancy or enjoyment thereof or the conduct of any business or activities thereon (hereinafter collectively referred to as the "*Intangibles*"); and

(i) all proceeds, products, offspring, rents and profits from any of the foregoing, including those from sale, exchange, transfer, collection, loss, damage, disposition, substitution or replacement of any of the foregoing.

Without limiting the generality of any of the foregoing, in the event that a case under the Bankruptcy Code is commenced by or against Mortgagor, pursuant to Section 552(b)(2) of the Bankruptcy Code, the security interest granted by this Mortgage shall automatically extend to all Rents acquired by the Mortgagor after the commencement of the case and shall constitute cash collateral under Section 363(a) of the Bankruptcy Code.

TO HAVE AND TO HOLD the Property unto and to the use and benefit of Administrative Agent and its successors and assigns, forever;

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PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay to Administrative Agent and Lender the Debt at the time and in the manner provided in the Loan Documents and shall well and truly abide by and comply with each and every covenant and condition set forth in the Loan Documents in a timely manner, and the obligations of Lender to make Additional Advances shall have terminated or expired, these presents and the estate hereby granted shall cease, terminate and be void;

AND Mortgagor represents and warrants to and covenants and agrees with Administrative Agent and Lender as follows:

PART I - GENERAL PROVISIONS

1. **Payment of Debt and Incorporation of Covenants, Conditions and Agreements.** Mortgagor shall pay the Debt at the time and in the manner provided in the Loan Documents. All the covenants, conditions and agreements contained in the Loan Documents are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein. Without limiting the generality of the foregoing, Mortgagor (i) agrees to insure, repair, maintain and restore damage to the Property, pay Taxes and Other Charges (provided, however, that Mortgagor need not pay any Taxes and Other Charges to the extent the same are paid by Lender pursuant to Section 3.3 of the Loan Agreement, and comply with Legal Requirements, in accordance with the Loan Agreement, and (ii) agrees that the Proceeds of Insurance and Awards for Condemnation shall be settled, held and applied in accordance with the Loan Agreement.

2. **Leases and Rents.**

(a) Mortgagor does hereby absolutely and unconditionally assign to Administrative Agent all of Mortgagor's right, title and interest in all current and future Leases, Rents, it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Such assignment shall not be construed to bind Administrative Agent or Lender to the performance of any of the covenants or provisions contained in any Lease or otherwise impose any obligation upon Administrative Agent or Lender. Nevertheless, subject to the terms of this Paragraph 2, Administrative Agent grants to Mortgagor a revocable license to operate and manage the Property and to exercise and enjoy all rights, privileges and benefits of the lessor under the Leases and to collect the Rents subject to the requirements of the Loan Agreement (including the deposit of Rents into the Clearing Account). Upon an Event of Default and during the continuance thereof, without the need for notice or demand, the license granted to Mortgagor herein shall automatically be revoked, and Administrative Agent shall immediately be entitled to possession of all Rents in the Clearing Account and the Cash Management Account (including all Subaccounts thereof) and all Rents collected thereafter (including Rents past due and unpaid), whether or not Administrative Agent enters upon or takes control of the Property. Mortgagor hereby grants and assigns to Administrative Agent the right, at its option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver to collect the Rents. Any Rents collected after the revocation of such license may be applied toward payment of the Debt in such priority and proportions as Administrative Agent in its sole discretion shall deem proper.

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(b) Mortgagor shall not enter into, modify, amend, cancel, terminate or renew any Lease except as provided in Section 5.10 of the Loan Agreement.

3. **Use of Property.** Mortgagor shall not initiate, join in, acquiesce in or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property. If under applicable zoning provisions the use of the Property is or shall become a nonconforming use, Mortgagor shall not cause or permit such nonconforming use to be discontinued or abandoned without the consent of Administrative Agent. Mortgagor shall not (i) change the use of the Property, (ii) permit or suffer to occur any intentional material physical waste on or to the Property (unless such waste resulted from the Property's and the Other Properties' (as herein after defined) failure to generate sufficient cash flow to cover the cost required to eliminate said waste or (iii) take any steps to convert the Property to a condominium or cooperative form of ownership.

4. **Transfer or Encumbrance of the Property.**

(a) Mortgagor acknowledges that (i) Administrative Agent has examined and relied on the creditworthiness and experience of the principals of Mortgagor in owning and operating properties such as the Property in agreeing to make the Loan, (ii) Administrative Agent will continue to rely on Mortgagor's ownership of the Property as a means of maintaining the value of the Property as security for the Debt, and (iii) Administrative Agent has a valid interest in maintaining the value of the Property so as to ensure that, should Mortgagor default in the repayment of the Debt, Administrative Agent can recover the Debt by a sale of the Property. Mortgagor shall not sell, convey, alienate, mortgage, encumber, pledge or otherwise transfer the Property or any part thereof, or suffer or permit any Transfer to occur, other than a Permitted Transfer.

(b) Administrative Agent shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon Transfer in violation of this Paragraph 4. This provision shall apply to every sale, conveyance, alienation, mortgage, encumbrance, pledge or transfer of the Property (and every other Transfer) regardless of whether voluntary or not. Any Transfer made in contravention of this Paragraph 4 shall be null and void and of no force and effect. Mortgagor agrees to bear and shall pay or reimburse Administrative Agent and Lender on demand for all reasonable expenses (including reasonable attorneys' fees and disbursements, title search costs and title insurance endorsement premiums) incurred by Administrative Agent and/or Lender in connection with the review, approval and documentation of any Permitted Transfer.

5. **Changes in Laws Regarding Taxation.** If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Administrative Agent's or Lender's interest in the Property, Mortgagor will pay such tax, with interest and penalties thereon, if any. If Administrative Agent is advised by its counsel that the payment of such tax or interest and penalties by Mortgagor would be unlawful, taxable to Administrative Agent or Lender or unenforceable, or would provide the basis for a defense of usury, then Administrative Agent shall have the option, by notice of not less than one hundred fifty (150) days, to declare the Debt immediately due and payable.

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6. **No Credits on Account of the Debt.** Mortgagor shall not claim or demand or be entitled to any credit on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, and no deduction shall otherwise be made or claimed from the assessed value of the Property for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Administrative Agent shall have the option, by notice of not less than one hundred fifty (150) days, to declare the Debt immediately due and payable.

7. **Further Acts, Etc.** Mortgagor shall, at its sole cost, duly execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Administrative Agent shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Administrative Agent the property and rights hereby mortgaged, given, granted, bargained, sold, alienated, enfeoffed, conveyed, confirmed, pledged, assigned and hypothecated or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Administrative Agent, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage or for facilitating the sale and transfer of the Loan and the Loan Documents in connection with a Secondary Market Transaction as described in, and in accordance with, Section 9.1 of the Loan Agreement. Upon foreclosure, the appointment of a receiver or any other relevant action, Mortgagor shall, at its sole cost, cooperate fully and completely to effect the assignment or transfer of any license, permit, agreement or any other right necessary or useful to the operation of the Property. Mortgagor grants to Administrative Agent an irrevocable power of attorney (to be exercised only during the continuance of an Event of Default) coupled with an interest solely for the purpose of exercising and perfecting any and all rights and remedies available to Administrative Agent at law and in equity, including such rights and remedies available to Administrative Agent pursuant to this Paragraph 7. Notwithstanding anything to the contrary in the immediately preceding sentence, Administrative Agent shall not execute any document as attorney-in-fact of Mortgagor unless during the continuance of an Event of Default (x) Mortgagor shall have failed or refused to execute the same within five (5) Business Days after Administrative Agent's request therefor, or (y) in Administrative Agent's good faith determination it would be materially prejudiced by the delay involved in making such a request. Administrative Agent shall give prompt notice to Mortgagor of any exercise of the power of attorney as provided for in this Paragraph 7, along with copies of all documents executed in connection therewith.

8. **Recording of Mortgage, Etc.** Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, shall cause this Mortgage, and any security instrument creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien or security interest hereof upon, and the interest of Administrative Agent in, the Property. Mortgagor shall pay all filing, registration or recording fees, all expenses incident to the preparation, execution and acknowledgment of and all federal, state, county and municipal, taxes, duties, imposts, documentary stamps, assessments and charges arising out of or in connection with the execution and delivery of, this Mortgage, any deed of trust supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, except where prohibited by law so to do. Mortgagor shall hold harmless and indemnify

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Administrative Agent, Lender and their respective successors and assigns, against any liability incurred by reason of the imposition of any tax on the making or recording of this Mortgage.

9. **Right to Cure Defaults.** Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, perform the obligations of Mortgagor in such manner and to such extent as Administrative Agent may deem necessary to protect the security hereof. During the continuance of such Event of Default, Administrative Agent is authorized to enter upon the Property for such purposes or appear in, defend or bring any action or proceeding to protect its interest in the Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Administrative Agent that such cost or expense was incurred to the date of payment to Administrative Agent, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Administrative Agent upon written demand.

10. **Remedies.**

(a) Upon the occurrence and during the continuance of an Event of Default, Administrative Agent may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Property, by Administrative Agent itself or otherwise, including the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Administrative Agent may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Administrative Agent and, in each case, to the fullest extent not prohibited by applicable law:

(i) declare the entire Debt to be immediately due and payable;

(ii) give such notice of default and of election to cause the Property to be sold as may be required by law or as may be necessary to cause Administrative Agent to exercise the power of sale granted herein; Administrative Agent shall then record and give such notice of sale as then required by law and, after the expiration of such time as may be required by law, may sell the Property at the time and place specified in the notice of sale, as a whole or in separate parcels as directed by Administrative Agent, or by Mortgagor to the extent required by law, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale, all in accordance with applicable law. Administrative Agent, from time to time, may postpone or continue the sale of all or any portion of the Property by public declaration at the time and place last appointed for the sale and no other notice of the postponed sale shall be required unless provided by applicable law. Upon any sale, Administrative Agent shall deliver its deed conveying the property sold, without any covenant or warranty, expressed or implied, to the purchaser or purchasers at the sale. The recitals in such deed of any matters or facts shall be conclusive as to the accuracy thereof;

(iii) institute a proceeding or proceedings, judicial or nonjudicial, to the extent permitted by law, by advertisement or otherwise, for the complete foreclosure of

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this Mortgage, in which case the Property may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(iv) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien of this Mortgage for the balance of the Debt not then due;

(v) sell for cash or upon credit the Property and all estate, claim, demand, right, title and interest of Mortgagor therein and rights of redemption thereof, pursuant to the power of sale, to the extent permitted by law, or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(vi) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in any other Loan Document;

(vii) recover judgment on the Note either before, during or after any proceeding for the enforcement of this Mortgage;

(viii) apply for the appointment of a trustee, receiver, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of the Mortgagor or of any person, firm or other entity liable for the payment of the Debt;

(ix) enforce Administrative Agent's interest in the Leases and Rents and enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and employees therefrom, and thereupon Administrative Agent may (A) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with the Property and conduct the business thereat; (B) complete any construction on the Property in such manner and form as Administrative Agent deems advisable; (C) make alterations, additions, renewals, replacements and improvements to or on the Property; (D) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive Rents; and (E) apply the receipts from the Property to the payment of the Debt, after deducting therefrom all expenses (including reasonable attorneys' fees and disbursements) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes, insurance and other charges in connection with the Property, as well as just and reasonable compensation for the services of Administrative Agent, and its counsel, agents and employees;

(x) require Mortgagor to pay monthly in advance to Administrative Agent, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of any portion of the Property occupied by Mortgagor, and require Mortgagor to vacate and surrender possession of the Property to Administrative

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Agent or to such receiver, and, in default thereof, evict Mortgagor by summary proceedings or otherwise;

(xi) exercise any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing: (i) the right to take possession of any Collateral (as defined below) or any part thereof, and to take such other measures as Mortgagor may deem necessary for the care, protection and preservation of the Collateral, and (ii) request Mortgagor at its expense to assemble the Collateral and make it available to Administrative Agent at the Premises;

(xii) apply any sums then deposited in the Cash Management Account (or any sub-account thereof) and any other sums held in escrow or otherwise by Administrative Agent or Lender in accordance with the terms of this Mortgage, the Loan Agreement, or any other Loan in accordance with and subject to the Loan Agreement;

(xiii) apply the undisbursed balance of any net proceeds under any insurance policies, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Administrative Agent shall deem to be appropriate in its discretion in accordance with and subject to the Loan Agreement;

(xiv) foreclose by power of sale, to the extent permitted by applicable law, or otherwise and apply the proceeds of any recovery to the Debt or to any deficiency under this Mortgage; or

(xv) pursue such other rights and remedies as may be available at law or in equity or under the UCC, including the right to receive and/or establish a lock box for all Rents and proceeds from the Intangibles and any other receivables or rights to payments of Mortgagor relating to the Property.

In the event of a sale, by foreclosure or otherwise, of less than all of the Property, this Mortgage shall continue as a lien on the remaining portion of the Property.

(b) The proceeds of any sale made under or by virtue of this Paragraph 10, together with any other sums which then may be held by Administrative Agent under this Mortgage, whether under the provisions of this Paragraph 10 or otherwise, shall be applied by Administrative Agent to the payment of the Debt in such priority and proportion as Administrative Agent in its sole discretion shall deem proper.

(c) Administrative Agent may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable law, Administrative Agent, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(d) Upon the completion of any sale or sales pursuant hereto, Administrative Agent, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and

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rights sold. Administrative Agent is hereby irrevocably appointed the true and lawful attorney of Mortgagor, in its name and stead, which power of attorney shall be exercisable only during the continuance of an Event of Default, to make all necessary conveyances, assignments, transfers and deliveries of the Property and rights so sold and for that purpose Administrative Agent may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, Mortgagor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Any sale or sales made under or by virtue of this Paragraph 10, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of Mortgagor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against Mortgagor and against any and all persons claiming or who may claim the same, or any part thereof, from, through or under Mortgagor.

(e) Upon any sale made under or by virtue of this Paragraph 10, whether made under a power of sale or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, Administrative Agent may bid for and acquire the Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Debt the net sales price after deducting therefrom the expenses of the sale and costs of the action and any other sums which Administrative Agent is authorized to deduct under this Mortgage or any other Loan Document.

(f) No recovery of any judgment by Administrative Agent or Lender and no levy of an execution under any judgment upon the Property or upon any other property of Mortgagor shall affect in any manner or to any extent the lien of this Mortgage upon the Property or any part thereof, or any liens, rights, powers or remedies of Administrative Agent or Lender hereunder, but such liens, rights, powers and remedies of Administrative Agent and Lender shall continue unimpaired as before.

(g) Administrative Agent may terminate or rescind any proceeding or other action brought in connection with its exercise of the remedies provided in this Paragraph 10 at any time before the conclusion thereof, as determined in Administrative Agent's sole discretion and without prejudice to Administrative Agent or Lender.

(h) Administrative Agent may resort to any remedies and the security given by this Mortgage or in any other Loan Document in whole or in part, and in such portions and in such order as determined by Administrative Agent's sole discretion. No such action shall in any way be considered a waiver of any rights, benefits or remedies evidenced or provided by any Loan Document. The failure of Administrative Agent or Lender to exercise any right, remedy or option provided in any Loan Document shall not be deemed a waiver of such right, remedy or option or of any covenant or obligation secured by any Loan Document. No acceptance by Administrative Agent or Lender of any payment after the occurrence of any Event of Default and no payment by Administrative Agent or Lender of any obligation for which Mortgagor is liable hereunder shall be deemed to waive or cure any Event of Default, or Mortgagor's liability to pay such obligation. No sale of all or any portion of the Property, no forbearance on the part of Administrative Agent, and no extension of time for the payment of the whole or any portion of the Debt or any other indulgence given by Administrative Agent to Mortgagor, shall operate to release or in any manner

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affect the interest of Administrative Agent or Lender in the remaining Property or the liability of Mortgagor to pay the Debt. No waiver by Administrative Agent shall be effective unless it is in writing and then only to the extent specifically stated. All costs and expenses of Administrative Agent in exercising its rights and remedies under this Paragraph 10 (including reasonable attorneys' fees and disbursements to the extent permitted by law), shall be paid by Mortgagor immediately upon notice from Administrative Agent, with interest at the Default Rate for the period after notice from Administrative Agent, and such costs and expenses shall constitute a portion of the Debt and shall be secured by this Mortgage.

(i) The interests and rights of Administrative Agent and Lender under the Loan Documents shall not be impaired by any indulgence, including (i) any renewal, extension or modification which Administrative Agent or Lender may grant with respect to any of the Debt, (ii) any surrender, compromise, release, renewal, extension, exchange or substitution which Administrative Agent or Lender may grant with respect to the Property or any portion thereof or (iii) any release or indulgence granted to any maker, endorser, guarantor or surety of any of the Debt.

11. **Right of Entry.** In addition to any other rights or remedies granted under this Mortgage, Administrative Agent and its agents shall have the right to enter and inspect the Property at any reasonable time during the term of this Mortgage subject to the rights of tenants under the Leases, provided that except in cases of emergency or during the continuance of an Event of Default, Administrative Agent shall provide at least one (1) Business Day prior notice. The cost of such inspections or audits shall be borne by Mortgagor should Administrative Agent determine that an Event of Default exists, including the cost of all follow up or additional investigations or inquiries deemed reasonably necessary by Administrative Agent. The cost of such inspections, if not paid for by Mortgagor following demand, may be added to the principal balance of the sums due under the Note and this Mortgage and shall bear interest thereafter until paid at the Default Rate.

12. **Security Agreement.** This Mortgage is both a real property deed of trust and a "security agreement" within the meaning of the UCC. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. Mortgagor by executing and delivering this Mortgage has granted and hereby grants to Administrative Agent, as security for the Debt, a security interest in the Property to the full extent that the Property may be subject to the UCC (such portion of the Property so subject to the UCC being called in this Paragraph 12 the "***Collateral***"). The foregoing sentence is intended to grant in favor of Administrative Agent a first priority continuing lien and security interest in all of Mortgagor's assets. Mortgagor authorizes Administrative Agent and its counsel to file UCC financing statements in form and substance satisfactory to Administrative Agent, describing the collateral as "all assets of Mortgagor, whether now owned or existing or hereafter acquired or arising and wheresoever located, and all proceeds and products thereof, including, without limitation, all fixtures on the Premises" or words to that effect, and any limitations on such collateral description, notwithstanding that such collateral description may be broader in scope than the Collateral described in this Mortgage. This Mortgage shall also constitute a "fixture filing" for the purposes of the UCC. As such, this Mortgage covers all items of the Collateral that are or are to become fixtures. Information concerning the security interest herein granted may be obtained from the parties at the addresses of the parties set forth in the first paragraph of this

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Mortgage. If an Event of Default shall occur, Administrative Agent, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the UCC, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Administrative Agent may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Administrative Agent during the continuance of an Event of Default, Mortgagor shall at its expense assemble the Collateral and make it available to Administrative Agent at a convenient place reasonably acceptable to Administrative Agent. Mortgagor shall pay to Administrative Agent and/or Lender on demand any and all expenses, including reasonable attorneys' fees and disbursements, incurred or paid by Administrative Agent and/or Lender in protecting the interest in the Collateral and in enforcing the rights hereunder with respect to the Collateral. Any notice of sale, disposition or other intended action by Administrative Agent with respect to the Collateral, sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may be applied by Administrative Agent to the payment of the Debt in such priority and proportions as Administrative Agent in its sole discretion shall deem proper. In the event of any change in name, identity or structure of Mortgagor, Mortgagor shall notify Administrative Agent thereof and promptly after request shall execute, file and record such UCC forms as are necessary to maintain the priority of Administrative Agent's lien upon and security interest in the Collateral, and shall pay all expenses and fees in connection with the filing and recording thereof. If Administrative Agent determines that the filing or recording of additional UCC forms or continuation statements is necessary, Mortgagor shall, within five (5) Business Days after request, execute (to the extent necessary), file and record such UCC forms or continuation statements as Administrative Agent shall deem necessary, and shall pay all expenses and fees in connection with the filing and recording thereof, it being understood and agreed, however, that no such additional documents shall increase Mortgagor's obligations under the Loan Documents.

13. **Actions and Proceedings.** Subject to Section 5.6 of the Loan Agreement, during the continuance of an Event of Default, Administrative Agent has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Mortgagor, which Administrative Agent, in its sole discretion, decides should be brought to protect its or their interest in the Property. Administrative Agent shall, at its option, be subrogated to the lien of any deed of trust or other security instrument discharged in whole or in part by the Debt, and any such subrogation rights shall constitute additional security for the payment of the Debt.

14. **Marshalling and Other Matters.** Mortgagor hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law. The lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or

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omissions whatsoever of Administrative Agent and, without limiting the generality of the foregoing, the lien hereof shall not be impaired by (i) any acceptance by Administrative Agent or Lender of any other security for any portion of the Debt, (ii) any failure, neglect or omission on the part of Administrative Agent or Lender to realize upon or protect any portion of the Debt or any collateral security therefor or (iii) any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, change, modification or disposition of any portion of the Debt or of any of the collateral security therefor; and Administrative Agent may foreclose, or exercise any other remedy available to Administrative Agent under other Loan Documents without first exercising or enforcing any of its remedies under this Mortgage, and any exercise of the rights and remedies of Administrative Agent or Lender hereunder shall not in any manner impair the Debt or the liens of any other Loan Document or any of Administrative Agent's or Lender's rights and remedies thereunder.

15. **Notices.** All notices, consents, approvals and requests required or permitted hereunder shall be in writing, and shall be sent, and shall be deemed effective, as provided in the Loan Agreement.

16. **Inapplicable Provisions.** If any term, covenant or condition of this Mortgage is held to be invalid, illegal or unenforceable in any respect, this Mortgage shall be construed without such provision.

17. **Headings.** The paragraph headings in this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

18. **Duplicate Originals.** This Mortgage may be executed in any number of duplicate originals and each such duplicate original shall be deemed to be an original.

19. **Definitions.** Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form; and the word "*Mortgagor*" shall mean "each Mortgagor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "*Administrative Agent*" shall mean "Administrative Agent and any subsequent holder of the Note or any subsequent administrative agent under the Loan Agreement," the words "*Property*" shall include any portion of the Property and any interest therein, the word "*including*" means "including but not limited to" and the words "*attorneys' fees*" shall include any and all attorneys' fees, paralegal and law clerk fees, including fees at the pre-trial, trial and appellate levels incurred or paid by Administrative Agent in protecting its interest in the Property and Collateral and enforcing its rights hereunder.

20. **Homestead.** Mortgagor hereby waives and renounces all homestead and exemption rights provided by the Constitution and the laws of the United States and of any state, in and to the Property as against the collection of the Debt, or any part thereof.

21. **Assignments.** Administrative Agent shall have the right to assign or transfer its rights under this Mortgage, subject to any limitations expressly provided in the Loan

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Agreement. Any assignee or transferee shall be entitled to all the benefits afforded Administrative Agent under this Mortgage.

22. **Waiver of Jury Trial.** MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THIS MORTGAGE OR ANY OTHER LOAN DOCUMENT, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY MORTGAGOR, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. ADMINISTRATIVE AGENT IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.

23. **Consents.** Any consent or approval by Administrative Agent in any single instance shall not be deemed or construed to be Administrative Agent's consent or approval in any like matter arising at a subsequent date, and the failure of Administrative Agent to promptly exercise any right, power, remedy, consent or approval provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Administrative Agent be estopped from exercising such right, power, remedy, consent or approval at a later date. Any consent or approval requested of and granted by Administrative Agent pursuant hereto shall be narrowly construed to be applicable only to Mortgagor and the matter identified in such consent or approval and no third party shall claim any benefit by reason thereof, and any such consent or approval shall not be deemed to constitute Administrative Agent or Lender a venturer or partner with Mortgagor nor shall privity of contract be presumed to have been established with any such third party. If Administrative Agent or Lender deems it to be in its best interest to retain assistance of persons, firms or corporations (including attorneys, title insurance companies, appraisers, engineers and surveyors) with respect to a request for consent or approval, Mortgagor shall reimburse Administrative Agent and/or Lender for all costs reasonably incurred in connection with the employment of such persons, firms or corporations.

24. **Loan Repayment.** Provided no Event of Default exists, the Lien of this Mortgage shall be terminated, released and reconveyed of record by Administrative Agent prior to the Maturity Date only in accordance with the terms and provisions set forth in the Loan Agreement.

25. **Intentionally Omitted.**

26. **Governing Law.** WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND PROCEDURES RELATING TO THE ENFORCEMENT OF THIS MORTGAGE, THIS MORTGAGE SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE TRUST PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE

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STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES SHALL GOVERN ALL MATTERS RELATING TO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.

27. **Exculpation.** The liability of Mortgagor hereunder is limited pursuant to Section 10.1 of the Loan Agreement.

28. **Variable Interest Rate.** The Loan secured by this Mortgage is a variable interest rate loan, as more particularly set forth in the Loan Agreement.

29. **Administrative Agent.** Lender, by the Loan Agreement has irrevocably appointed and authorized Administrative Agent to take such action as contractual representative on Lender's behalf and to exercise such powers under this Mortgage as are specifically delegated to Lender by the terms hereof and of the Loan Agreement, together with such powers as are reasonably incidental thereto, all pursuant to and as more particularly set forth in the Loan Agreement, which is incorporated herein by reference, and Lender shall be specifically bound by any actions so taken by Administrative Agent.

30. **Survival; Successors and Assigns.** This Mortgage and all covenants, agreements, representations and warranties made herein shall continue in full force and effect so long as all or any of the Debt remains outstanding and unpaid. Whenever in this Mortgage any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and permitted assigns of such party. All covenants, promises and agreements in this Mortgage, by or on behalf of Mortgagor, shall inure to the benefit of the legal representatives, successors and assigns of Administrative Agent. This Mortgage shall be binding upon Mortgagor and its permitted successors and assigns forever.

31. **Remedies Against Multiple Parcels.** The Debt and the Obligations hereby secured are also secured by Other Properties covered by Other Security Instruments within and/or outside the state where the Property is located. If this Mortgage or any of the Other Security Instruments is foreclosed upon, or if any judgment is entered upon any Obligations secured hereby, or if Administrative Agent or Lender exercises its power of sale (if applicable under the laws of the State in which the Property is located), execution may be made upon or Administrative Agent or Lender may exercise its remedies (including any power of sale (if applicable under the laws of the state in which the applicable Other Property is located)) against any one or more of the Other Properties and not upon the other Other Properties, or upon all of such Other Properties, either together or separately, and at different times or at the same time, and the exercise of such remedies, execution sales or sales under the power of sale herein granted (if applicable under the laws of the state in which the Property is located) may likewise be conducted separately or concurrently, in each case at Administrative Agent's or Lender's election. No event of enforcement taking place against any Other Property, and no failure to prosecute any such other enforcement, shall in any way stay, preclude or bar enforcement of this Mortgage, and Administrative Agent or Lender may

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pursue any or all of its rights and remedies under this Mortgage until the Debt and the Obligations are paid and discharged in full. As used herein, (i) "**Other Properties**" shall mean each of the Individual Properties other than the Premises, and (ii) "**Other Security Instruments**" shall mean each of the other Mortgages (as defined in the Loan Agreement) other than this Mortgage.

32. **Suretyship Waivers.** Mortgagor understands that this Mortgage secures not only Mortgagor's obligations under the Loan Documents but also the obligations of the Other Borrowers under the Loan Documents and that the Lender would not have made the Loan but for the agreement of Mortgagor and each Other Borrower to be jointly and severally liable for each and every obligation of the "Borrower" set forth in the Loan Agreement. Mortgagor agrees that it has received sufficient consideration for its agreement to be bound by and to the extent of the terms hereof. In particular, Mortgagor is of the view that the financial accommodations offered to each of Mortgagor and the Other Borrowers under the Loan Agreement will enhance the aggregate borrowing powers of Mortgagor and the Other Borrowers, and that Mortgagor will receive substantial direct and/or indirect benefits by reason of the making of the Loan and other financial accommodations provided in the Loan Agreement. To the extent that, notwithstanding the above and the express intent of the parties, Mortgagor is deemed to be a surety or guarantor of any Other Borrower, then Mortgagor hereby waives any and all suretyship defenses or defenses in the nature thereof.

33. **Compliance with State Specific Laws.** The following provisions are incorporated by reference into this Mortgage. If any conflict or inconsistency exists between this Section and the remainder of this Mortgage, this Section shall govern.

(a) **Protective Advances.** Without limitation on anything contained in this Mortgage, all advances, disbursements and expenditures made by Administrative Agent or Lender before and during a foreclosure of this Mortgage, and before and after a judgment of foreclosure, and at any time prior to sale of the Property, and, where applicable, after sale of the Property and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1101 *et seq.* (the "Act"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act referred to below (collectively, "**Protective Advances**"):

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

(ii) payments by Administrative Agent or Lender of: (A) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance on the Property; (B) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part hereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests

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reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

(iii) advances by Administrative Agent or Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any prior liens;

(iv) reasonable outside attorneys' fees and other expenses incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Section 15-1504(d)(2) and 15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against Administrative Agent or Lender for the enforcement of this Mortgage or arising from the interest of Administrative Agent or Lender hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

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

(vi) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act;

(vii) expenses incurred and expenditures made by Administrative Agent or Lender for any one or more of the following: (A) if all or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (B) if any interest in the 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; (C) premiums for casualty and liability insurance paid by Administrative Agent or Lender whether or not Administrative Agent or Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining existing insurance in effect at the time any receiver or mortgagee takes possession of the Property as imposed by subsection (c)(1) of Section 15-1704 of the Act; (D) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (E) payments required or deemed by Administrative Agent or Lender to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (F) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member if in any way affecting the Property; (G) costs incurred by Administrative Agent or Lender for demolition, preparation for and completion of construction; and (H) pursuant to any lease or other agreement, for occupancy of the Property.

All Protective Advances shall be so much additional Debt 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 Default Rate. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to subsection (b) of Section 15-1302 of the Act. All Protective Advances shall, except to

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the extent, if any, that any of the same are clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (A) determination of the amount of Debt secured by this Mortgage at any time; (B) the amount of the Debt found due and owing to Administrative Agent or Lender in a judgment of foreclosure and any subsequent, supplemental judgments, orders, adjudications or findings by any court of any additional Debt becoming due after such entry of judgment (it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose); (C) if right of redemption is deemed not to be waived by this Mortgage, computation of any amounts required to redeem, pursuant to Subsections (d)(2) and (e) of Section 15-1603 of the Act; (D) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (E) application of income in the hands of any receiver or Lender in possession; and (F) computation of any deficiency judgment pursuant to subsections (b) (2) and (e) of Sections 15-1508 and 15-1511 of the Act.

(b) **Waiver of Right of Redemption and Reinstatement.** Without limiting the generality of Section 21 of this Mortgage, the waiver by Mortgagor of its rights of redemption and reinstatement in such Section, include the waiver of such rights as provided under Sections 15-1601 and 15-1602 of the Act.

(c) **Business Loan Recital/Statutory Exemption.**

(i) Mortgagor acknowledges and agrees that (A) the proceeds of the Loan will be used in conformance with subparagraph (l) of Section 4(1) of the Illinois Interest Act (815 ILCS 205/0.01, et seq.); (B) the Debt secured hereby has been incurred by Mortgagor solely for business purposes of Mortgagor and for Mortgagor's investment or profit, as contemplated by said subparagraph (l) of Section 4(1); (C) the Debt secured hereby constitutes a loan secured by real estate within the purview of and as contemplated by said subparagraph (l) of Section 4(1); and (D) the secured Debt is an exempted transaction under the Truth-In-Lending Act, 15 U.S.C. Sec. 1601 *et. seq.* and has been entered into solely for business purposes of Mortgagor and Mortgagor's investment or profit, as contemplated by said section.

(ii) Without limiting the generality of anything contained herein, Mortgagor acknowledges and agrees that the transaction of which this Mortgage is part is a transaction which does not include either agricultural real estate (as defined in 15-1201 of the Act) or residential real estate (as defined in 15-1219 of the Act).

(d) **Maximum Principal Amount/Future Advances.** This Mortgage shall secure the payment of any amounts advanced from time to time under the Loan Documents, or under other documents stating that such advances are secured hereby. As provided in the Loan Agreement, Administrative Agent and Lender shall have the right to make subsequent advances of the Loan. This Mortgage also secures any and all future obligations and Debt arising under or in connection with this Mortgage, which future obligations and Debt shall have the same priority as if all such future obligations and Debt were made on the date of execution hereof. Nothing in this Section or in any other provision of this Mortgage shall be deemed an obligation on the part of Administrative Agent or Lender to make any future advances of any sort. At all times, regardless of whether any Loan proceeds have been disbursed, this Mortgage shall secure (in addition to any Loan proceeds disbursed from time to time) the payment of any and all expenses

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and advances due to or incurred by Administrative Agent and Lender in connection with the Debt to be secured hereby and which are to be reimbursed by Mortgagor under the terms of this Mortgage; provided, however, that in no event shall the total amount of Loan proceeds disbursed plus such additional amounts exceed \$426,450,000.

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

(f) **Illinois Mortgage Foreclosure Act**. It is the express intention of Administrative Agent, Lender and Mortgagor that the rights, remedies, powers and authorities conferred upon Administrative Agent and Lender pursuant to this Mortgage shall include all rights, remedies, powers and authorities that a mortgagor may confer upon a mortgagee under the Act and/or as otherwise permitted by applicable law, as if they were expressly provided for herein. In the event that any provisions in this Mortgage are deemed inconsistent with any provision in the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. If any provision of this Mortgage shall grant to Administrative Agent and Lender any rights or remedies which are more limited than the rights that would otherwise be vested in Administrative Agent and Lender under the Act in the absence of such provisions, Administrative Agent and Lender shall be vested with the rights granted in the Act to the full extent permitted by law.

(g) **Collateral Protection Act**. Pursuant to the requirements of the Illinois Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified as follows:

Unless the Mortgagor provides Administrative Agent with evidence of the insurance coverage required by this Mortgage, the Loan Agreement or any of the other Loan Documents, Administrative Agent or Lender may purchase insurance at Mortgagor's expense to protect Administrative Agent's and Lender's interest in the Property or any other collateral for the Debt. This insurance may, but need not protect Mortgagor's interests. The coverage Administrative Agent or Lender purchases may not pay any claim that Mortgagor makes or any claim that is made against Mortgagor in connection with the Property or any other collateral for the Debt. Mortgagor may later cancel any insurance purchased by Administrative Agent or Lender but only after providing Administrative Agent and Lender with evidence that Mortgagor has obtained insurance as required by this Mortgage, the Loan Agreement or any of the other Loan Documents. If Administrative Agent or Lender purchases insurance for the Property or any other collateral for the Debt, Mortgagor will be responsible for the out-of-pocket costs of that insurance, until the effective date of the cancellation or expiration of the insurance. The cost of the insurance may be added to the Debt and future obligations secured hereunder and shall bear interest

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at the Default Rate. The costs of the insurance may be more than the cost of insurance that Mortgagor may be able to obtain on its own.

(h) **Venue.** Any action to enforce this Mortgage or to pursue any of the remedies set forth herein shall be brought in the courts of the State of Illinois, in the county in which the Premises are located.

(i) **Fixture Financing Statement.** From the date of its recording, this Mortgage shall be effective as a fixture financing statement within the purview of Section 9-502(c) of the Illinois Uniform Commercial Code (as amended from time to time) with respect to the Premises and the goods described herein, which goods are or are to become fixtures related to the Premises. The addresses of Mortgagor (Debtor) and Administrative Agent (Secured Party) are set forth below. This Mortgage is to be filed for recording with the Recorder of Deeds of the county or the counties where the Premises is located. For this purpose, the following information is set forth:

(i) Name and Address of Debtor:

BSREF III 9300 King Avenue LLC
c/o Brookfield Property Group
250 Vesey Street, 15th Floor
New York, New York 10281
Attention: General Counsel

(ii) Name and Address of Secured Party:

Teachers Insurance and Annuity Association of America
8500 Andrew Carnegie Boulevard
Charlotte, North Carolina 28262
Attention: Chief Credit Officer
TIAA Authorization #AAA-8306
Investment ID #0009401

(iii) This document covers goods which are or are to become fixtures.

(iv) Debtor's state of formation is Delaware.

[NO FURTHER TEXT ON THIS PAGE]

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IN WITNESS WHEREOF, Mortgagor has executed this instrument as of the day and year first above written.

MORTGAGOR:

BSREP III 9300 KING AVENUE LLC, a
Delaware limited liability company

By:  _____

Name: Zachary Cohn

Title: Authorized Signatory

Property of Cook County Clerk's Office

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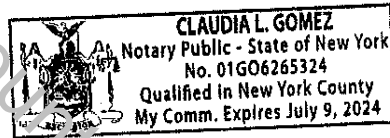
ACKNOWLEDGMENT

STATE OF New York)
 COUNTY OF New York) SS.

I, Claudia L. Gomez a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Zachary Cohn, personally known to me to be the Authorized Signatory of BSREP III 9300 King Avenue LLC, a Delaware limited liability company whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such Authorized Signatory, he signed and delivered the said Instrument of writing for said limited liability company as his free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 10 day of June, 2021.

Claudia L. Gomez
 Notary Public



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EXHIBIT A

Legal Description

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

PARCEL 1:

WEST 115.0 FEET OF THE EAST 900.0 FEET OF THE NORTH 412.25 FEET OF THE SOUTH 1749.0 FEET OF FRACTIONAL SECTION 22 (THE EAST LINE OF SECTION 22 ALSO BEING THE WEST LINE OF LA FRAMBOISE SUBDIVISION RESERVE), ALL IN TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 412.25 FEET OF THE SOUTH 1,749 FEET OF THE WEST 738.21 FEET OF THE EAST 1,523.21 FEET OF FRACTIONAL SECTION 22 (THE EAST LINE OF SAID SECTION 22, BEING ALSO THE WEST LINE OF LA FRAMBOISE RESERVE), ALL IN TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN.

EXCEPT FOR THAT PART OF SAID TRACT LYING WEST AND SOUTH OF THE FOLLOWING DESCRIBED LINE:

BEGINNING AT THE POINT OF INTERSECTION OF THE NORTH LINE OF THE SOUTH 1,336.75 FEET OF SAID SECTION 22 WITH A LINE 6.5 FEET WEST OF AND PARALLEL TO THE EAST LINE OF LOMBARD STREET (AS DELINEATED IN VOLK BROS. RIVER DRIVE ADDITION TO FRANKLIN PARK) EXTENDED SOUTH; THENCE NORTH ALONG SAID LINE FOR A DISTANCE OF 276.7 FEET TO A POINT 6.0 FEET SOUTH OF THE NORTH LINE OF THE SOUTH 1,619.45 FEET OF SAID SECTION; THENCE NORTHWESTERLY A DISTANCE OF 8.51 FEET TO POINT WHICH IS 6.0 FEET WEST OF THE SAID LINE 6.5 FEET WEST OF AND PARALLEL TO THE EAST LINE OF LOMBARD STREET EXTENDED SOUTH, AND SAID POINT BEING ON THE NORTH LINE OF SOUTH 1,619.45 FEET OF SAID SECTION; THENCE WEST ALONG SAID NORTH LINE TO A DISTANCE OF 106.3 FEET TO A POINT 6.0 FEET EAST OF THE WEST LINE OF THE EAST 1,523.21 FEET OF SAID SECTION 22; THENCE NORTHWESTERLY A DISTANCE OF 8.51 FEET TO A POINT WHICH IS 6.0 FEET NORTH OF THE NORTH LINE OF THE SOUTH 1,619.45 FEET AND SAID POINT BEING ON THE WEST LINE OF THE EAST 1,523.21 FEET OF SAID SECTION 22, THENCE NORTH ALONG THE WEST LINE OF SAID EAST 1,523.21 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH 1749.00 FEET THEREOF FOR THE POINT OF TERMINATION OF SAID LINE, IN COOK COUNTY, ILLINOIS.

ALSO EXCEPTING THE WEST 115.0 FEET OF THE EAST 900.0 FEET OF THE NORTH 412.25 FEET OF THE SOUTH 1,749.0 FEET OF FRACTIONAL SECTION 22 (THE EAST LINE OF SAID SECTION 22 BEING ALSO THE WEST LINE OF THE LA FRAMBOISE RESERVE), ALL IN TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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