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Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Report Mortgage Fraud

844-768-1713

AP 2209987-3 *2/2/22*

The property identified as.

PIN: 14-33-313-019-0000

Address:

Street: 1653 N. Halsted Street

Street line 2:

City: Chicago

State: IL

ZIP Code: 60614

Lender: Yoshiharu Wakura

Borrower: YY Halsted LLC, an Illinois limited liability company

Loan / Mortgage Amount: \$1,850,000.00

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.



2234857013

Doc# 2234857013 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/14/2022 02:40 PM PG: 1 OF 43

Certificate number: D079EB18-B772-4914-9D95-3090A8835EBC

Execution date: 11/30/2022

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This Instrument was prepared by:

Reda & Des Jardins, LLC
 736 North Western Ave.
 Suite 353
 Lake Forest, Illinois 60045
www.rdlawyers.com

After recording, mail to:

Reda & Des Jardins, LLC
 736 North Western Ave.
 Suite 353
 Lake Forest, Illinois 60045
www.rdlawyers.com

MORTGAGE & SECURITY AGREEMENT

THIS MORTGAGE & SECURITY AGREEMENT dated November 30, 2022, is made and executed by and between YY HALSTED LLC, an Illinois limited liability company (“Borrower” or “Mortgagor”) whose principal address is 222 S. Morgan St., Suite 4D, Chicago, IL 60607 and YOSHIHARU WAKUBA (“Lender” or “Mortgagee”).

RECITALS

Whereas, Lender is making a loan to Borrower (“Loan”) which is evidenced by a Promissory Note Secured By Mortgage (“Note”) in the amount of \$261,248,675.00 or \$1,850,000.00 plus possible loan advances as described therein, executed by Borrower in favor of Lender, dated the same date as this Mortgage, payable to the order of Lender; and

Whereas, the loan documents include this Mortgage, the Note and the other documents described in the Note as Loan Documents (“Loan Documents”).

NOW, THEREFORE, in consideration of the covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Borrower and Lender hereby agree as follows:

I. INCORPORATION OF RECITALS. The recitals set forth above shall constitute and be deemed an integral part of this Mortgage.

II. GRANT OF MORTGAGE. To secure the payment of the Note and Loan Documents, as well as any extension, modification, renewal or substitution thereof, Mortgagor mortgages, warrants, and conveys to Mortgagee all of Mortgagor’s right, title, and interest in and to the real property as more fully described on Exhibit “A” attached hereto and incorporated herein by this reference (“Land”), together with:

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- A. all improvements now or hereafter located thereon and the rights therein;
- B. all easements, rights-of-way and rights used in connection therewith or with a means of access thereto and all tenements, hereditaments and appurtenances thereto;
- C. all fixtures and all furniture, equipment and other personalty (excluding inventory goods) customarily located on, in or upon said Real Property, including but not limited to all machinery used in the operation of the business conducted on said Real Property, as well as any and all additions, substitutions, replacements and proceeds thereto or there from;
- D. all right, title and interest of the Mortgagor in and to any and all leases, now or hereafter on or affecting the Property;
- E. all rents and profits of such Property, with full and complete authority and right in Mortgagee in case of default of this Mortgage to demand, collect, receive and receipt for such rents, issues and profits;
- F. the present and future estates and interest of Mortgagor therein; and
- G. all existing or subsequently erected or affixed buildings, improvements and fixtures; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters.

All of the property described above is hereinafter collectively defined as the “**Property**”.

III. OBLIGATIONS SECURED. Borrower makes the foregoing grant and assignment for the purpose of securing the following obligations (“**Secured Obligations**”):

- A. Full and punctual payment to Lender of all sums at any time owing under the Note;
- B. Payment and performance of all covenants and obligations of Borrower under this Mortgage including, without limitation, indemnification obligations and advances made to protect the Property;
- C. Payment and performance of all additional covenants and obligations of Borrower under the Loan Documents except for the Borrower’s covenants and obligations under any “Environmental Indemnity Agreement,” executed in favor of Lender, as of the date hereof (including any riders thereto). For the avoidance of doubt, the Secured Obligations, notwithstanding anything to the contrary contained herein, shall not include, obligations or covenants, in each case, pursuant to: (i) any guarantee of the Loan (it being understood that the guarantor(s) under such Guarantee shall not be the Borrower); (ii) any environmental indemnity regarding the Property executed by, in each case, the Borrower and/or any guarantor/additional indemnitor; and (iii) any similar Guarantee or indemnity, including any rider(s) thereto, by which a person guarantees or otherwise acts as a surety regarding the Borrower’s obligations under the

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Loan Documents. Without limiting the generality of the foregoing provisions of this Section and for the further avoidance of doubt, the Secured Obligations do not include, in each case, (x) any "Guarantee" of the Loan executed as of the date hereof, in favor of Lender, and any successor thereto and (y) any "Environmental Indemnity Agreement" (including any rider(s) thereto) executed as of the date hereof, in favor of Lender, and any successor thereto (it being understood that such Guarantee/Guaranties and the Environmental Indemnity Agreement, notwithstanding anything to the contrary contained herein, are not secured by this Mortgage);

D. Payment and performance of all covenants and obligations, if any, which any rider attached as an exhibit to this Mortgage recites are secured hereby;

E. Payment and performance of all future advances and other obligations that the then record owner of all or part of the Property may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Lender, when the obligation is evidenced by a writing that recites that it is secured by this Mortgage; however, any obligation secured by this Mortgage shall not be construed to be part of any "Guarantee" or "Environmental Indemnity Agreement" (as such terms are used in Section III(c) hereof, including any rider(s) or successor documents thereto);

F. All interest and charges on all obligations secured hereby including, without limitation, prepayment charges, late charges and loan fees; and

G. All modifications, extensions and renewals of any of the obligations secured hereby, however evidenced, including, without limitation: (a) modifications of the required principal payment dates or interest payment dates or both, as the case may be, deferring or accelerating payment dates wholly or partly; and (b) modifications, extensions or renewals at a different rate of interest whether or not any such modification, extension or renewal is evidenced by a new or additional promissory note or notes.

The term "**Obligations**" is used herein in its broadest and most comprehensive sense and shall be deemed to include, without limitation, all interest and charges, prepayment charges, late charges, reimbursements for expenses, and loan fees at any time accruing or assessed on any of the Secured Obligations. All terms and conditions of the documents that evidence any of the Secured Obligations are incorporated herein by this reference. All persons who may have or acquire an interest in the Property shall be deemed to have notice of the terms of the Secured Obligations and to have notice that the rate of interest on one or more Secured Obligations may vary from time to time. As used in this Mortgage, "person" or "persons" shall refer to both a natural person and a legal person.

IV. RIGHTS AND DUTIES.

A. Maintenance of Property. Mortgagor shall: (a) promptly repair, restore, replace or rebuild any portion of the Property which may become damaged or be destroyed whether or not proceeds of insurance are available or sufficient for that purpose; (b) keep the Property in good condition and repair, free from waste; (c) pay all operating costs of the Property; (d) complete, within a reasonable time, any building or buildings or other improvements now or at any time in

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the process of erection upon the Property; (d) comply with all requirements of statutes, ordinances, rules, regulations, orders, decrees and other requirements of law relating to the Property or any part thereof by any federal, state or local authority; (e) refrain from any action and correct any condition which would increase the risk of fire or other hazard to the Improvements or any portion thereof; (f) comply with any restrictions and covenants of record with respect to the Property and the use thereof; and observe and comply with any conditions and requirements necessary to preserve and extend any and all rights, licenses, permits (including without limitation zoning variances, special exceptions and nonconforming uses), privileges, franchises and concessions that are applicable to the Property or its use and occupancy; and (f) cause the Property to be managed in a competent and professional manner.

B. Preservation of Property. Without the prior written consent of Mortgagee, or its successors or assigns, Mortgagor shall not cause, suffer or permit any: (a) material alterations of the Property except as required by law or ordinance or except as permitted or required to be made by the terms of any Leases approved by Mortgagee; (b) change in the intended use or occupancy of the Property, including without limitation any change which would increase any fire or other hazard; (c) change in the identity of the person or firm responsible for managing the Property; (d) zoning reclassification with respect to the Real Property; (e) unlawful use of, or nuisance to exist upon, the Property; (f) granting of any easements, licenses, covenants, conditions or declarations of use against the Property, other than use restrictions contained or provided for in Leases approved by Mortgagee; (g) nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property; (h) removal of any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products; (i) demolition or removal of any improvements from the Property; or (j) the Property to be abandoned or left unattended. Mortgagor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

C. Compliance with Laws. Borrower shall comply with all federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.), as amended from time to time. Borrower shall possess and maintain or cause Borrower to possess and maintain in full force and effect at all times (a) all certificates of occupancy and other licenses, permits and authorizations required by applicable law for the existing use of the Property and (b) all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, required by applicable law for Borrower to conduct the business(es) in which Borrower is now engaged. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Mortgagor has notified Mortgagee in writing prior to doing so and so long as, in Mortgagee's sole opinion, Mortgagee's interests in the Property are not jeopardized. Mortgagee may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Mortgagee, to protect Mortgagee's interest.

D. Litigation. Borrower shall promptly notify Lender in writing of any litigation pending or threatened against Borrower claiming damages in excess of Fifty Thousand and 00/100 Dollars (\$50,000.00).

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E. Merger, Consolidation, Transfer of Assets. Borrower shall not, without the prior written consent of Lender: (a) merge or consolidate with any other entity or permit Borrower to merge or consolidate with any other entity; (b) make any substantial change in the nature of Borrower's business or structure or permit Borrower to make any substantial change in the nature of Borrower's business or structure; (c) acquire all or substantially all of the assets of any other entity or permit Borrower to acquire all or substantially all of the assets of any other entity; or (d) sell, lease, assign, transfer or otherwise dispose of a material part of Borrower's assets except in the ordinary course of Borrower's business or permit Borrower to sell, lease, assign, transfer or otherwise dispose of a material part of Borrower's assets except in the ordinary course of Borrower's business.

F. Accounting Records. Borrower shall maintain adequate books and records in accordance with the same accounting standard used by Borrower to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan or other accounting standards approved by Lender. Borrower shall permit and shall cause Borrower to permit any representative of Lender, at any reasonable time and from time to time, to inspect, audit and examine such books and records and make copies of same.

G. Financials.

1. Statements. During the term of the Loan or while any liabilities of Borrower to Lender under any of the Loan Documents remain outstanding and unless Lender otherwise consents in writing, Borrower shall provide to Lender or cause to be provided to Lender, each in a form acceptable to Lender, the following:

a. Leasing Schedule. Not later than thirty (30) days after written request by Lender, a schedule, signed and dated by Borrower, showing the following lease information with regard to each tenant: the name of the tenant, a description of the premises, monthly or other periodic rental amount, dates of commencement and expiration of the lease, and payment status;

b. Balance Sheet and Annual Financial Statements. With respect to Both Borrower and any guarantor or indemnitor, in each case, not later than ninety (90) days after the close of the respective fiscal years of Borrower, any guarantor, and any indemnitor, balance sheet and financial statements, including, as applicable and without limitation: (i) balance sheet for the Property, signed and dated by Borrower; (ii) a schedule, signed and dated by Borrower, showing all revenues and expenses during such fiscal year, relating to the Property; (iii) financial statements showing all assets and liabilities of Borrower, which shall be certified by a principal, managing member or general partner of Borrower as being true, correct and complete or, upon the reasonable request of Lender, audited by an independent certified public accountant; and (iv) financial statements showing all assets and liabilities of each indemnitor and guarantor under any indemnity or guarantee, which shall be certified by such guarantor or indemnitor or the principal, managing member or general partner of such indemnitor or guarantor, as being true, correct and complete or, upon the reasonable request of Lender, audited by an independent certified public accountant;

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c. **Tax Returns.** Not later than June 30th of each year, copies of all tax returns (with all schedules) or extensions filed by Borrower and any indemnitor or guarantor under any indemnity or guarantee, unless an extension has been obtained, but no event later than the earlier of (i) September 1st of each year or (ii) within twenty (20) days after filing; and

d. **Other Information.** From time to time, such other information with regard to Borrower, principals of Borrower, guarantors or the Property as Lender may reasonably request in writing.

H. Form; Warranty. Borrower agrees that all financial statements to be delivered to Lender, pursuant to the immediately preceding Section, irrespective of whether they pertain to Borrower or any guarantor or indemnitor, in each case, shall: (a) be complete and correct; (b) present fairly the financial condition of the party; (c) disclose all liabilities that are required to be reflected or reserved against; and (d) be prepared in accordance with the same accounting standard used by Borrower, or as applicable, such guarantor or indemnitor, to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan or other accounting standards acceptable to Lender. By delivering any such financial statement, Borrower shall be deemed to warrant and represent that, as of the date of delivery of any such financial statement, there has been no material adverse change in financial condition, nor have any assets or properties been sold, transferred, assigned, mortgaged, pledged or encumbered since the date of such financial statement except as disclosed by Borrower in a writing delivered to Lender.

I. Costs, Expenses and Fees. Borrower shall pay to Lender the full amount of all costs and expenses, including, without limitation, attorney's fees (i.e., outside counsel), incurred by Lender in connection with: (a) Appraisals and inspections of the Property or Collateral required by Lender as a result of (i) a Transfer (as hereinafter defined) or proposed Transfer, or (ii) an Event of Default, and (b) any acts performed or proposed to be performed by Lender at Borrower's request or wholly or partially for the benefit of Borrower (including, without limitation, the preparation or review of amendments, assumptions, waivers, releases, reconveyances, estoppel certificates or statements of amounts owing under any Secured Obligation). Borrower shall pay all costs and expenses arising under this Section immediately upon demand by Lender together with interest thereon following notice of such indebtedness at the rate of interest then applicable to the principal balance of the Note as specified therein. Any administrative fees owed to Lender pursuant to the Loan Documents shall be due and payable immediately upon Borrower requesting the action from Lender and shall be non-refundable, irrespective of the disposition of the request by Lender. Borrower shall have no expectation that Lender commence review of any matter or request prior to Borrower paying the required fee pursuant to the Loan Documents. In addition, and without limitation to Lender's right to recover all its out-of-pocket expenses from Borrower on demand as provided in this Section, Lender shall have the right to require Borrower to provide a legal deposit (i.e., payment in advance) before engaging outside counsel to do any legal work and to refresh that deposit, at Lender's request, over the pendency of the matter. Borrower shall have no expectation that Lender commence any legal work with outside counsel prior to Borrower paying any legal deposit requested by Lender.

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J. Expenditure Recovery. If any action or proceeding is commenced that would materially affect Mortgagee's interest in the Property or if Mortgagor fails to comply with any provision of this Mortgage or any Loan Documents, including but not limited to Mortgagor's failure to discharge or pay when due any amounts Mortgagor is required to discharge or pay under this Mortgage, the Note or any Loan Documents, Mortgagee on Mortgagor's behalf may (but shall not be obligated to) take any action that Mortgagee deems appropriate, including but not limited to discharging or paying all taxes, liens, security interests, encumbrances and other claims, at any time levied or placed on the Property and paying all costs for insuring, maintaining and preserving the Property. All such expenditures incurred or paid by Mortgagee for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Mortgagee to the date of repayment by Mortgagor. All such expenses will become a part of the Note and, at Mortgagee's option, will: (a) be payable on demand; (b) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due; or (c) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. Such right shall be in addition to all other rights and remedies to which Mortgagee may be entitled upon an Event of Default.

K. No Other Liens, Encumbrances and Charges. This Mortgage is and will be maintained as a valid first position superior mortgage on the Property. Without obtaining Lender's prior written consent (which consent shall be granted or withheld in Lender's sole and absolute discretion and at Borrower's sole cost and expense), Borrower shall not incur any debt, secured or unsecured, direct or indirect, absolute or contingent (including guaranteeing any obligation), other than the Loan and trade debt incurred in the ordinary course of Borrower's business (with any such trade debt to be paid within sixty (60) days of the date such debt was incurred and, in any event, prior to delinquency). Borrower shall immediately discharge by bonding or otherwise any lien, charge or other encumbrance which attaches to the Property in violation of this Mortgage or the Loan Documents. Subject to Borrower's right to contest such matters under this Mortgage or as expressly permitted in the Loan Documents, Borrower shall pay when due all obligations secured by or reducible to liens and encumbrances which shall now or hereafter encumber or appear to encumber all or any part of the Property or any interest therein, whether senior or subordinate hereto, including, without limitation, all claims for work or labor performed, or materials or supplies furnished, in connection with any work of demolition, alteration, repair, improvement or construction of or upon the Property, except such as Borrower may in good faith contest or as to which a bona fide dispute may arise (provided provision is made to the satisfaction of Lender for eventual payment thereof in the event that Borrower is obligated to make such payment and that any recorded claim of lien, charge or other encumbrance against the Property is immediately discharged by bonding or otherwise).

L. Taxes and Other Liabilities. Borrower shall pay and discharge when due any and all indebtedness, obligations, assessments and taxes, both real and personal and including federal and state income taxes and state and local property taxes and assessments. Borrower shall promptly provide to Lender copies of all tax and assessment notices pertaining to the Property. Borrower hereby authorizes Lender to obtain, at Borrower's expense, a tax service contract which shall provide tax information on the Property to Lender for the term of the Loan and any extensions or renewals of the Loan.

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M. Insurance Coverage. Borrower shall insure the Property against loss or damage by fire and such other hazards as Lender shall from time to time require, however, not to exceed full replacement cost; provided, however, (a) Lender, at Lender's election, may only require flood insurance if all or any portion of the improvements located on the Property is or becomes located in a special flood hazard area; and (b) Lender, at Lender's election, may only require earthquake insurance if all or any portion of the Property is or becomes located in an earthquake fault zone. Borrower shall also carry public liability insurance and such other insurance as Lender may require, including, without limitation, business interruption insurance or loss of rents insurance. Such policies shall contain a standard mortgage clause naming Lender and its successors and assigns as a loss payee or additional insured, as appropriate, and requiring at least thirty (30) days prior notice to the holder at termination or cancellation. Borrower shall maintain all required insurance at Borrower's expense, in companies, and in substance and form satisfactory to Lender, including, without limitation, an agreed amount endorsement. Lender shall not, by reason of accepting, rejecting, approving or obtaining insurance shall incur any liability for: (c) the existence, nonexistence, form or legal sufficiency of any insurances; (d) the solvency of any insurer; or (e) the payment of claims. If Borrower fails to maintain and deliver to Lender the original policies or certificates of insurance required by this Mortgage, upon ten (10) days prior notice to Borrower, Lender may procure such insurance at Borrower's sole cost and expense. Borrower agrees to deliver to Lender promptly upon receipt, but in any event no later than thirty (30) days prior to the termination of any of such insurance policies, a renewal policy (or certificate of insurance evidencing the same) satisfying the requirements of this Mortgage.

N. Insurance and Condemnation Proceeds.

1. *Assignment of Claims.* Borrower absolutely and irrevocably assigns to Lender all of the following rights, claims and amounts (collectively, "Claims"), all of which shall be paid to Lender: (a) all awards of damages and all other compensation payable directly or indirectly by reason of a condemnation or proposed condemnation for public or private use affecting all or any part of, or any interest in, the Property; (b) all other claims and awards for damages to or decrease in value of all or any part of, or any interest in, the Property; (c) all proceeds of any insurance policies payable by reason of loss sustained to all or any part of the Property; and (d) all interest which may accrue on any of the foregoing. Borrower shall give Lender prompt written notice of the occurrence of any casualty affecting, or the institution of any proceedings for eminent domain or for the condemnation of, the Property or any portion thereof. So long as no Event of Default has occurred and is continuing at the time, Borrower shall have the right to adjust, compromise and settle any Claim of \$25,000 or less without the consent of Lender, provided, however, all awards, proceeds and other sums described herein shall continue to be payable to Lender. Lender may commence, appear in, defend or prosecute any Claim exceeding \$25,000, and may adjust, compromise and settle all Claims (except for Claims which Borrower may settle as provided herein), but shall not be responsible for any failure to commence, appear in, defend, prosecute or collect any such Claim regardless of the cause of the failure. All awards, proceeds and other sums described herein shall be payable to Lender.

2. *Application of Proceeds; No Event of Default.* So long as no Event of Default has occurred and is continuing at the time of Lender's receipt of the proceeds of the Claims ("Proceeds") and no Event of Default occurs thereafter, Lender shall apply the Proceeds in the

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following order of priority: First, to Lender's expenses in settling, prosecuting or defending the Claims; Second, to the repair or restoration of the Property; and Third, to Borrower if the repair or restoration of the Property has been completed, but to the Secured Obligations in any order without suspending, extending or reducing any obligation of Borrower to make installment payments if the repair or restoration of the Property has not been completed. Notwithstanding the foregoing, Lender shall have no obligation to make any Proceeds available for the repair or restoration of the Property unless and until all the following conditions have been satisfied in Lender's sole and absolute discretion: (a) delivery to Lender of the Proceeds plus any additional amount which is needed to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period); (b) establishment of an arrangement for lien releases and disbursement of funds acceptable to Lender; and (c) delivery to Lender in form and content acceptable to Lender of all of the following: (i) plans and specifications for the work; (ii) a contract for the work, signed by a contractor acceptable to Lender; (iii) a cost breakdown for the work; (iv) if required by Lender, a payment and performance bond for the work; (v) evidence of the continuation of all Leases unless consented to in writing by Lender; (vi) evidence that, upon completion of the work, the size, capacity, value, and income coverage ratios for the Property will be at least as great as those which existed immediately before the damage or condemnation occurred; and (vii) evidence of the satisfaction of any additional conditions that Lender may reasonably establish to protect Lender's security. Borrower acknowledges that the specific conditions described above are reasonable.

3. Application of Proceeds; Even of Default. If an Event of Default has occurred and is continuing at the time of Lender's receipt of the Proceeds or if an Event of Default occurs at any time thereafter, Lender may, at Lender's absolute discretion and regardless of any impairment of security or lack of impairment of security, but subject to applicable law governing use of the Proceeds, if any, apply all or any of the Proceeds to Lender's expenses in settling, prosecuting or defending the Claims and then apply the balance to the Secured Obligations in any order without suspending, extending or reducing any obligation of Borrower to make installment payments, and may release all or any part of the Proceeds to Borrower upon any conditions Lender chooses.

O. Impounds.

1. Taxes and Insurance. If required by Lender at any time, on each Payment Date (as defined in the Note) on which both principal and interest under the Loan are payable, Lender, at its sole option, may require that Borrower pay, an amount estimated from time to time by Lender in its sole discretion to pay one-twelfth (1/12th) of an amount which would be sufficient to pay all "Costs". The term "Cost" shall mean (a) all taxes and other liabilities payable by Borrower herein; (b) all insurance premiums payable by Borrower herein; (c) all other costs and expenses required for impounds; and/or (d) all other amounts that in Lender's sole and independent determination will be required to preserve the value of the Property. Borrower shall deliver to Lender, promptly upon receipt, all bills for Costs for which Lender has required Impounds. So long as there has been no Event of Default, Lender waives the requirement of Costs to be paid on each Payment Date.

2. Post-Default Impounds. In the event Lender at any time waives the requirement that Borrower pays Costs, and if required by Lender at any time after an Event of Default occurs

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(and regardless of whether such an Event of Default is thereafter cured), Borrower shall deposit with Lender such amounts Post-Default Impounds on such dates (determined by Lender as provided below) as will be sufficient to pay any or all Costs specified by Lender. Lender in its sole discretion shall estimate the amount of such Costs that will be payable or required during any period selected by Lender not exceeding one year and shall determine the fractional portion thereof that Borrower shall deposit with Lender on each date specified by Lender during such period. If the Post-Default Impounds paid by Borrower are not sufficient to pay the related Costs, Borrower shall deposit with Lender upon demand an amount equal to the deficiency. All Post-Default Impounds shall be payable by Borrower in addition to (but without duplication of) any other Impounds.

3. All Impounds. Post-Default Impounds and any other impounds that may be payable by Borrower under the Note are collectively called "**Impounds**". All Impounds shall be deposited into an account maintained by Lender or its servicing agent, which may be a commingled account, and Lender shall not be entitled to interest thereon. Lender shall not be a trustee, special depository or other fiduciary for Borrower with respect to such account, and the existence of such account shall not limit Lender's rights under this Mortgage, any other agreement or any provision of law. If no Event of Default exists, Lender shall apply all Impounds to the payment of the related Costs, or in Lender's sole discretion may release any or all Impounds to Borrower for application to and payment of such Costs. If an Event of Default exists, Lender may apply any or all Impounds to any Secured Obligation and/or to cure such Event of Default, whereupon Borrower shall restore all Impounds so applied and cure all Events of Default not cured by such application. The obligations of Borrower hereunder shall not be diminished by deposits of Impounds made by Borrower, except to the extent that such obligations have actually been met by application of such Impounds. Upon any assignment of this Mortgage, Lender may assign all Impounds in its possession to Lender's assignee, whereupon Lender shall be released from all liability with respect to such Impounds. Within sixty (60) days following full repayment of the Secured Obligations (other than as a consequence of foreclosure or conveyance in lieu of foreclosure) or at such earlier time as Lender may elect, Lender shall pay to Borrower all Impounds in its possession, and no other party shall have any right or claim thereto.

P. Defense and Notice of Losses, Claims and Actions. Borrower shall protect, preserve and defend the Property and title to and right of possession of the Property, the security of this Mortgage and the rights and powers of Lender hereunder at Borrower's sole expense against all adverse claims, whether the claim: (a) is against a possessory or non-possessory interest; (b) arose prior or subsequent to the Loan Date; or (c) is senior or junior to Borrower's or Lender's rights. Borrower shall give Lender prompt notice in writing of the assertion of any claim, or the filing of any action or proceeding, of the occurrence of any damage to the Property and of any condemnation offer or action.

Q. Lender's Right to Enter. Lender and Lender's agents and representatives may enter upon the Property at all reasonable times to attend to Lender's interests and to inspect the Property for purposes of Borrower's compliance with the terms and conditions of this Mortgage. Borrower authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Borrower's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be

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for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Borrower or to any other person.

R. Transfers By Borrower.

1. Prohibition. Borrower acknowledges that Lender has relied upon the principal(s) of Borrower and their experience in owning and operating properties similar to the Property in connection with the closing of the Loan. Accordingly, except pursuant to the prior written consent of Lender, which Lender may withhold, delay, or condition in Lender's sole discretion, Borrower shall not cause or permit any Transfer (as defined herein) of, in each case, itself (i.e., the Borrower), the Property, the Collateral (except for equipment and inventory in the ordinary course of its business, with respect to the Collateral only), the Loan, the Note, or this Mortgage. "Transfer" means any: (a) sale or exchange; (b) mortgage, pledge, hypothecation or encumbrance; (c) assignment, including, without limitation, assignment by operation of law or for the benefit of creditors or the delegation of duties; (d) direct or indirect conveyance, transfer, or disposition, including, without limitation, any direct transfer, grant, or release of title or legal ownership and any indirect transfer through the use of a nominee, trustee, or receiver (other than a receiver appointed at Lender's request); (e) direct or indirect change of control of the Borrower through any means, including without limitation, serial transactions, contracts, or a change in the ultimate control or beneficial ownership of Borrower (including, without limitation, any transfer of or by, in each case, (i) a general or limited partnership interest; (ii) stock, shares, or other equity; (iii) issuance of new or treasury stock, shares, or other equity or changes in voting rights or the creation of a new class of stock, shares, or other equity interests, in each case, that, whether through one action or a series of actions, effects a direct or indirect change of control in an entity; (iv) a limited liability company or membership interest; (v) direct or indirect control of a trust; (vi) interest in a joint venture contract; or (vii) any other interest analogous or otherwise similar to items (i)-(vi) of this list), as well as changing of a key control person, whether legal or natural, relied upon by Lender as provided in this Section, such as, without limitation, the naming a new general partner of a partnership or manager or managing member of a limited liability company); and (f) any action, transfer, or event of similar effect to the preceding list of items (a)-(e), and the meaning of the meaning of Transfer shall include any of the foregoing circumstances listed in (a)-(f) whether occurring, in each case, voluntarily, involuntarily, by operation of law, through one action or event, or through a series of transactions, legal transfers, or other actions or events even if each individually would not constitute a change in control in or beneficial ownership of Borrower but as a series would constitute a Transfer. If a Transfer is made without the prior written consent of, Lender shall have the absolute right at its option, without prior demand or notice, to declare all of the Secured Obligations immediately due and payable, except to the extent prohibited by law, and pursue its rights and remedies herein. Borrower agrees to pay any prepayment fee as set forth in the Note in the event the Secured Obligations are accelerated pursuant to the terms of this Section. Lender's consent to one such Transfer shall apply only to the Transfer consented to in that instance and shall not be deemed to be a waiver of the right to require prior written consent to future or successive Transfers. Without limiting the generality of the foregoing provisions of this Section, the capitalized term "Assignment" refers to the subset of Transfers encompassing: (i) any assignment of Borrower's interest in the Note or the Mortgage, in each case, including, without limitation, an assignment by operation of law, and (ii) any delegation of duties by Borrower under, in each case, the Note or the Mortgage. Unless Lender, in

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writing, subsequently ratifies an Assignment made contrary to this Section, any Assignment by Borrower, whether voluntarily or involuntarily, made contrary to this Section, shall be null and void. Lender's consent to or ratification of, in each case, one such Assignment shall apply only to the Assignment consented to or ratified in that instance and shall not be deemed to be a waiver of the right to require prior written consent to future or successive Assignments.

2. Other Permitted Transfers. Notwithstanding and without limiting the generality of the foregoing Section above, the following actions shall be permitted subject to the terms of (i) this Section and other applicable Sections of this Mortgage. In the case of the actions described in clauses (a) and (c) of this Section, the actions described therein shall be permitted only with the prior written consent of Lender, which consent shall not be unreasonably withheld, conditioned, or delayed.

a. the direct one-time transfer (i.e., of the interest itself, and not by a higher-level change in control) of up to forty-nine (49%) of: the (i) limited partnership interests in any Borrower that is a limited partnership; (ii) membership interests in any Borrower that is a limited liability company (other than the membership interests (x) of a member that is the manager or managing member of such Borrower or (y) that otherwise constitute control of such Borrower, which, in each case, shall not be transferable without the prior written consent of Lender, which may be withheld, conditioned or delayed by Lender in its sole and absolute discretion); or (iii) voting stock in any Borrower that is a corporation (other than preferred, special, or similar stock that, despite holding less than 50% of the corporation's total stock allows for direct or indirect control of, in each case, the corporation or its board of directors or other governing body, which shall not be transferable without the prior written consent of Lender, which may be withheld, conditioned or delayed by Lender in its sole and absolute discretion).

b. any involuntary transfer caused by the death or court-adjudicated incapacity of any natural person that is (i) a general partner, shareholder, joint venturer or member of Borrower; (ii) any manager or managing member of Borrower if Borrower is a limited liability company; and (iii) a beneficial owner of a or other natural person that controls a trust.

c. gifts for estate planning purposes of any natural person's interests in Borrower or in any of Borrower's general partners, members or joint venturers to the spouse or any lineal descendant of such individual, or to a properly constituted trust for the benefit of any one or more of such individual, spouse or lineal descendant, provided, however, that in each case described in clauses (a), (b) or (c) above, such transfer shall be permitted only so long as Borrower remains as a legal person or, if required, e.g., in the case of a joint venture or general partnership, is reconstituted, following such transfer and so long as those persons responsible for the management of the Property and Borrower remain unchanged following such gift or any replacement management is approved by Lender. Notwithstanding the foregoing provisions of this Section, nothing in this Section authorizes title to the Property to be transferred without Lender's prior written consent that would be otherwise required, in each case, under this Mortgage.

3. Lender's Written Consent or Ratification. As used in this Section, any reference to Lender's written consent, approval, or ratification of a Transfer, in each case, requires a writing

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made by Lender executed by an officer of Lender holding the title Executive Vice President or higher.

4. Transfer Costs. In connection with any Transfer requiring Lender's consent: (a) Borrower shall pay an assumption fee in the amount of one percent (1%) of the then unpaid principal balance of the Loan; (b) Borrower shall pay to Lender both (i) an administrative fee of one thousand five hundred dollars (\$1,500.00) for Lender processing the Transfer and (ii) all Lender's out-of-pocket costs (including, without limitation, any out-of-pocket legal expenses paid to outside counsel and the cost of any appraisal); and (c) The cost of either (i) a "date down" endorsed to Lender's title insurance policy, including any additional endorsements required by Lender, or (ii) a new title insurance policy, satisfactory to Lender in its discretion, if a "date down" is not available. In addition to the above-stated, Borrower shall comply with all Lender's then policies and procedures in connection with providing its consent to a Transfer, including but not limited to Borrower and its transferee entering an assumption agreement acceptable to Lender and provide a substitute guarantor (acceptable to Lender in Lender's sole and absolute discretion) who shall sign a Guarantee agreement acceptable to Lender (in Lender's sole and absolute discretion). Nothing in this limits Lender's discretion to withhold, delay, or condition, in each case, its consent pursuant to the provisions herein, including, without limitation, Lender's right to: (i) require other conditions not provided for in this Section; (ii) make decisions regarding Lender's assessment of the creditworthiness of any prospective substitute guarantor or party assuming the obligations hereunder as a result of a proposed Transfer; (iii) require additional conditions related to its credit evaluation of any Transfer or party thereto; (iv) require execution of additional documentation; or (v) refer matters to outside counsel at Borrower's expense to assist with reviewing or consummating any proposed Transfer.

S. Releases, Extensions, Modifications and Additional Security. Without notice to or the consent, approval or agreement of any persons or entities having any interest at any time in the Property or in any manner obligated under the Secured Obligations ("**Interested Parties**"), Lender may, from time to time: (a) fully or partially release any person or entity from liability for the payment or performance of any Secured Obligation; (b) extend the maturity of any Secured Obligation; (c) make any agreement with Borrower increasing the amount or otherwise altering the terms of any Secured Obligation; (d) accept additional security for any Secured Obligation; or (e) release all or any portion of the Property, Collateral and other security for any Secured Obligation. None of the foregoing actions shall release or reduce the personal liability of any of the Interested Parties, or release or impair the priority of the lien of this Mortgage upon the Property.

T. Sale or Participation of Loan. Borrower agrees that Lender may at any time sell, assign, participate or securitize all or any portion of Lender's rights and obligations under the Loan Documents, and that any such sale, assignment, participation or securitization may be to one or more financial institutions or other entities, to private investors, and/or into the public securities market, in Lender's sole discretion. Borrower further agrees that Lender may disseminate to any such actual or potential purchaser(s), assignee(s) or participant(s) all documents and financial and other information heretofore or hereafter provided to or known to Lender with respect to: (a) the Property and its operation; and/or (b) any party connected with the Loan (including, without limitation, Borrower, any partner or member of Borrower, any

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constituent partner or member of Borrower, any guarantor and any nonborrower party). In the event of any such sale, assignment, participation or securitization, Lender and the other parties to the same shall share in the rights and obligations of Lender set forth in the Loan Documents as and to the extent they shall agree among themselves. In connection with any such sale, assignment, participation or securitization, Borrower further agrees that the Loan Documents shall be sufficient evidence of the obligations of Borrower to each purchaser, assignee or participant, and Borrower shall, within fifteen (15) days after request by Lender, deliver an estoppel certificate verifying for the benefit of Lender and any other party designated by Lender the status and the terms and provisions of the Loan in form and substance acceptable to Lender, and enter into such amendments or modifications to the Loan Documents as may be reasonably required in order to facilitate any such sale, assignment, participation or securitization without impairing Borrower's rights or increasing Borrower's obligations. The indemnity obligations of Borrower under the Loan Documents shall also apply with respect to any purchaser, assignee or participant.

U. Release. Lender shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all indebtedness secured hereby (including any interest and late charges provided for herein or in the Note). The recitals of any matters of fact or facts in any instrument of release executed hereunder ("**Release**") shall be conclusive proof of the truthfulness thereof. To the extent permitted by law, the Release may describe the grantee as "**the person or persons legally entitled thereto**". Lender shall not have any duty to determine the rights of persons claiming to be rightful grantees of any Release. When the Property has been fully released and reconveyed, the last such release and reconveyance shall operate as a reassignment of all future rents, issues and profits of the Property to the person or persons legally entitled thereto.

V. Subrogation. Lender shall be subrogated to the lien of all encumbrances, whether released of record or not, paid in whole or in part by Lender pursuant to this Mortgage or by the proceeds of any loan secured by this Mortgage.

V. ASSIGNMENT OF RENTS & LEASES. Mortgagor unconditionally and absolutely assigns, sells and transfers to Mortgagee all of Mortgagor's right, title and interest in and to: (a) all leases, subleases, occupancy agreements, licenses, usufructs, rental contracts and other agreements now or hereafter existing relating to the use or occupancy of the Property (or any part thereof), together with all guarantees, modifications, extensions and renewals thereof (collectively, the "**Leases**"); and (b) all rents, profits, income, revenue, royalties, bonuses, rights, benefits and proceeds due or to become due, payable or accruing from tenants of the Property, including rentals and all other payments of any kind under the Leases, together with all deposits (including security deposits) of tenants thereunder (collectively, "**Rents**"). This Mortgage is (to the extent permitted by applicable law) an absolute assignment to Mortgagee and not an assignment as security for the performance of the obligations under the Loan Documents (defined hereinafter) or any other indebtedness.

A. Liability of Mortgagee. Mortgagee shall not in any way be liable to Mortgagor for any action or inaction of Mortgagee, its employees or agents pursuant to this Mortgage.

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B. No Obligation on Mortgagee. Notwithstanding Mortgagee's rights hereunder, Mortgagee shall not be obligated to perform, and Mortgagee does not undertake to perform, any obligation, duty or liability with respect to the Leases, Rents or Property on account of this Mortgage. Mortgagee shall have no responsibility on account of this Mortgage for the control, care, maintenance or repair of the Property, for any waste committed on the Property, for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property. Nothing contained herein shall be construed as constituting the Mortgagee a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Mortgagee pursuant to the provisions contained herein and in the Note and Loan Documents.

C. No Waiver; Remedies Cumulative. The exercise or non-exercise by Mortgagee of the rights granted in this Mortgage or the collection and application of Rents by Mortgagee or its agent shall not be a waiver of any default by Mortgagor under this Mortgage, Note or any other Loan Documents. No action or failure to act by Mortgagee with respect to any obligations of Mortgagor under the Mortgage, Note and Loan Documents, to any security or guaranty given for the payment or performance thereof, shall in any manner affect, impair or prejudice any of Mortgagee's rights and privileges under this Mortgage, or discharge, release or modify any of Mortgagor's duties or obligations hereunder. It is understood and agreed that the provisions set forth in this Mortgage shall be deemed a special remedy given to the Mortgagee, and shall not be deemed exclusive of any remedies other wise granted herein, but shall be deemed an additional remedy and shall be cumulative with the remedies therein granted and elsewhere, all of which remedies shall be enforceable concurrently or successively. Mortgagor's liability for all expenses and fees hereunder shall also extend to the collection of any judgment which shall result from Mortgagee's enforcement of its rights and remedies under this Mortgage.

D. Right to Apply Rents. Mortgagee shall apply any Rents received hereunder as more particularly set forth in the Mortgage, Note and Loan Documents.

E. Rights of Mortgagee. Subject to the provisions hereof, in any case in which under the provisions of the Mortgage the Mortgagee has a right to institute foreclosure proceedings, whether before or after the entire principal sum secured thereby is declared to be immediately due, or whether before or after institution of legal proceedings to foreclose the lien hereof or before or after sale thereunder, forthwith, upon demand of the Mortgagee, Mortgagor agrees to surrender to the Mortgagee, and Mortgagee shall be entitled to take actual possession of the Property or any part thereof personally, or by its agents or attorneys, and Mortgagee shall have the right, power and authority to: (a) notify any person, including tenants, that the Leases have been assigned to Mortgagee and that all Rents are to be paid directly to Mortgagee, whether or not Mortgagee has commenced or completed foreclosure or taken possession of the Property; (b) enforce payment of Rents and other rights under the Leases, prosecute any action or proceeding, and defend against any claim with respect to Rents and Leases; (c) with or without force and with or without process of law, enter upon, take and maintain possession of and operate all or any part of the Property; and/or (d) perform any and all obligations of Mortgagor under the Leases and exercise any and all rights of Mortgagor therein contained to the full extent of Mortgagor's rights and obligations thereunder, with or without the bringing of any action or the appointment of a receiver.

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F. Rights of Mortgagor. Notwithstanding that this Mortgage is (to the extent permitted by applicable law) an absolute assignment of the Rents and Leases and not merely the collateral assignment of, or the grant of a lien or security interest in, the Rents and Leases, Mortgagee grants to Mortgagor the license and privilege to collect and receive the Rents (subject to the next sentence), but such privilege and license shall automatically terminate and shall cease to exist upon the occurrence of an Event of Default. Mortgagor shall apply any Rents received by Mortgagor in the manner required by the Mortgage.

G. Term. When: (a) all amounts due under the Loan are paid in full, and (b) all other obligations of Mortgagor under the Mortgage, Note and Loan Documents are fully satisfied, Mortgagee shall re-convey the Rents and Leases to Mortgagor. It is expressly understood that no judgment or decree which may be entered on any debt secured or intended to be secured by the Mortgage shall operate to abrogate or lessen the effect of this instrument, but the same shall continue in full force and effect until the payment and discharge of any and all indebtedness secured by the Mortgage, in whatever form the said indebtedness may be until the indebtedness secured by the Mortgage shall have been paid in full and all bills incurred by virtue of the authority herein contained have been fully paid out of rents, issues and profits of the Property, or by Mortgagor, or until such time as this instrument may be voluntarily released. This instrument shall also remain in full force and effect during the pendency of any foreclosure proceedings, both before and after sale, until the issuance of a deed pursuant to a foreclosure decree, unless the indebtedness secured by the Mortgage is fully satisfied before the expiration of any period of redemption.

H. Covenants. All Leases. Borrower shall, at Borrower's sole cost and expense:

1. perform all obligations of the landlord under the Leases and use reasonable efforts to enforce performance by the tenants of all obligations of the tenants under the Leases;
2. use reasonable efforts to keep the Property leased at all times to tenants which Borrower in good faith believes are creditworthy, at rents not less than the fair market rental value (including, but not limited to, free or discounted rents to the extent the market so requires);
3. promptly upon Lender's request, deliver to Lender a copy of each requested Lease and all amendments thereto and waivers thereof;
4. promptly upon Lender's request, execute and record any additional assignments of landlord's interest under any Lease to Lender and specific subordinations of any Lease to this Mortgage, in form and substance satisfactory to Lender; and
5. promptly upon Lender's request, but in any event by June 30th of each year, provide Lender a current rent roll, certified by Borrower as being true and correct, containing the names of all tenants with respect to the Property, the terms of their respective Leases, the spaces occupied and the rentals or fees payable thereunder and the amount of each tenant's security deposit.

Unless consented to in writing by Lender or otherwise permitted under any other provision of the

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Loan Documents, Borrower shall not:

1. grant any tenant under any Lease any option, right of first refusal or other right to purchase all or any portion of the Property under any circumstances;
2. grant any tenant under any Lease any right to prepay rent more than one (1) month in advance;
3. except upon Lender's request, execute any assignment of landlord's interest in any Lease;
4. except as set forth herein, collect rent or other sums due under any Lease in advance, other than to collect rent one (1) month in advance of the time when it becomes due; or
5. execute any lease for a term of greater than five (5) years, which deviates materially from the standard form Lease approved by Lender in writing.

Any such attempted action in violation of the provisions of this Section shall be null and void.

VI. GRANT OF SECURITY INTEREST.

A. Grant. Mortgagor grants and assigns to Mortgagee a Uniform Commercial Code security interest to secure payment and performance of all of the Secured Obligations, in Mortgagor's interest in all of the following described personal property in which Borrower now or at any time hereafter has any interest (collectively, "**Collateral**"): All goods, building and other materials, supplies, work in process, equipment, machinery, fixtures, furniture, furnishings (including consumer goods, inventory equipment and farm products), signs and other personal property, wherever situated, which are or are to be incorporated into, used in connection with or appropriated for use on the Property; all rents, issues, deposits and profits of the Property (to the extent, if any, they are not subject to the assignment of leases and rents set forth in herein); all inventory, accounts, cash receipts, impounds, accounts receivable, contract rights, general intangibles (including payment intangibles and software), chattel paper (including electronic chattel paper and tangible chattel paper), instruments, documents, notes, drafts, letter of credit rights and deposit accounts (as those terms are defined in the UCC (as defined below)), insurance policies, insurance and condemnation awards and proceeds (including without limitation all Claims and Proceeds of Claims as such terms are defined below), any other rights to the payment of money, trade names, trademarks and service marks arising from or related to the Property or any business now or hereafter conducted thereon by Borrower; all permits, consents, approvals, licenses, authorizations and other rights granted by, given by or obtained from, any governmental entity with respect to the Property, including but not limited for the intended use; all interest in any assignments of leases to adjoining real property and options to purchase such property; all deposits or other security now or hereafter made with or given to utility companies by Borrower with respect to the Property; all advance payments of insurance premiums made by Borrower with respect to the Property; all plans, drawings and specifications relating to the Property; all loan funds held by Lender, whether or not disbursed, all funds deposited with Lender pursuant to any Loan Document, including, without limitation, all

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“**Restoration Funds**” as defined herein; all reserves, deferred payments, deposits, accounts, refunds, cost savings and payments of any kind related to the Property or any portion thereof, including, without limitation, all “**Impounds**” as defined herein together with all replacements and proceeds of, and additions and accessions to, any of the foregoing, and all books, records and files relating to any of the foregoing. As to all of the above-described personal property which is or which hereafter becomes a “**fixture**” under applicable law, this Mortgage constitutes a fixture filing under the Uniform Commercial Code (“**UCC**”).

B. Addresses. The mailing addresses of Mortgagor and Mortgagee from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the UCC) are as stated in the Notice section of this Mortgage.

C. Collateral. The Mortgagor (being the Debtor as that term is used in the UCC) is and will be the true and lawful owner of the Collateral, subject to no liens, charges or encumbrances other than the lien hereof and Permitted Encumbrances. The Collateral is to be used by the Mortgagor solely for business purposes, for Mortgagor's own use, or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Property. The Collateral will be kept at the real estate comprised in the Property, and will not be removed therefrom without the consent of the Mortgagee (being the Secured Party as that term is used in the UCC) by Mortgagor or any other person; and the Collateral may be affixed to such real estate but will not be affixed to any other real estate. The only persons having any interest in the Property are the Mortgagor, its beneficiaries and the Mortgagee.

D. Default. Upon the occurrence of any Event of Default hereunder (regardless of whether the UCC has been enacted in the jurisdiction where rights or remedies are asserted) and at any time thereafter (such default not having previously been cured), the Mortgagee at its option may declare the Note immediately due and payable, and thereupon Mortgagee shall have the remedies of a secured party under the UCC, including without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose may, so far as the Mortgagor can give authority therefore, with judicial process, enter (if this can be done without breach of the peace), upon any place where the Collateral or any part thereof may be situated and remove the same therefrom (provided that if the Collateral is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to Mortgagor's right of redemption in satisfaction of the Mortgagor's obligations, as provided in the Code. The Mortgagee without removal may render the Collateral unusable and dispose of the Collateral on the Property. The Mortgagee may require the Mortgagor to assemble the Collateral and make it available to the Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. The Mortgagee will give Mortgagor at least ten (10) days notice of the time and place of any public sale thereof or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed at least ten (10) days before the time of the sale or disposition. The Mortgagee may bid at any public sale and if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations, Mortgagee may bid at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale

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of the Property. The Collateral and Property may be sold as one lot if Mortgagee so elects. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling or the like and the reasonable attorneys' fees and legal expenses incurred by Mortgagee, shall be applied in satisfaction of the Note. The Mortgagee will account to the Mortgagor for any surplus realized on such disposition.

E. Financing Statements. There is no financing statement covering any of the Collateral or any proceeds thereof on file in any public office except pursuant hereto; and Mortgagor will at its own cost and expense, upon demand, furnish to the Mortgagee such further information and will execute and deliver to the Mortgagee such financing statement and other documents in form satisfactory to the Mortgagee and will do all such acts and things as the Mortgagee may at any time or from time to time reasonably request or as may be necessary or appropriate to establish and maintain a perfected security interest in the Collateral as security for the Note, subject to no adverse liens or encumbrances; and the Mortgagor will pay the cost of filing the same or filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Mortgagee to be necessary or desirable.

F. Security Interest. Upon request by Mortgagee, Mortgagor shall take whatever action is requested by Mortgagee to perfect and continue Mortgagee's security interest in the Collateral. In addition to recording this Mortgage in the real property records, Mortgagee may, at any time and without further authorization from Mortgagor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Mortgagor shall reimburse Mortgagee for all expenses incurred in perfecting or continuing this security interest. Upon default, Mortgagor shall not remove, sever or detach the Collateral from the Property. Upon default, Mortgagor shall assemble any Collateral not affixed to the Property in a manner and at a place reasonably convenient to Mortgagor and Mortgagee and make it available to Mortgagee within three (3) days after receipt of written demand from Mortgagee to the extent permitted by applicable law.

VII. REPRESENTATIONS AND WARRANTIES. Mortgagor represents and warrants that, to Mortgagor's current actual knowledge after reasonable investigation and inquiry, the following statements are true and correct as of the Loan Date (as defined in the Note):

A. Authority to Act. Mortgagor is qualified to do business in all jurisdictions in which such qualification is required. Mortgagor has the full right, power, and authorities to mortgage, pledge, convey, execute, and deliver this Mortgage and the Loan Documents to Mortgagee.

B. Books and Records; Financial Statements. Mortgagor will keep and maintain books of records and account relating to the Property and operation thereof, including the Leases relating to the Property, which books of record and account shall, at all reasonable times, be open to the inspection of Mortgagee and its accountants and other duly authorized representatives of Mortgagee. Mortgagor shall enter in such books of record and account full, true and correct entries in accordance with generally accepted accounting principles of all dealings and transactions relative to the Property therein.

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C. Compliance With Laws. The Property and Mortgagor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

D. Permits. Borrower possesses all permits, franchises and licenses and all rights to all trademarks, trade names, patents and fictitious names, if any, necessary to enable Borrower to conduct the business(es) in which Borrower is now engaged in compliance with applicable law.

E. Authorization and Validity. The execution and delivery of the Loan Documents have been duly authorized and the Loan Documents constitute valid and binding obligations of Borrower, in accordance with their respective terms, except as such enforcement may be limited by bankruptcy, insolvency, moratorium or other laws affecting the enforcement of creditors' rights, or by the application of rules of equity.

F. Violations. The execution, delivery and performance by Borrower of each of the Loan Documents do not violate any provision of any law or regulation, or result in any breach or default under any contract, obligation, indenture or other instrument to which Borrower is a party or by which Borrower is bound.

G. Litigation. There are no pending or threatened actions, claims, investigations, suits or proceedings before any governmental authority, court or administrative agency which may adversely affect the financial condition or operations of Borrower other than those previously disclosed in writing by Borrower to Lender.

H. Financial Statements. The financial statements of Borrower, of each general partner (if Borrower or Borrower is a partnership), of each member (if Borrower is a limited liability company) and of each guarantor, if any, previously delivered by Borrower to Lender: (a) are materially complete and correct; (b) present fairly the financial condition of such party; and (c) have been prepared in accordance with the same accounting standard used by Borrower to prepare the financial statements delivered to and approved by Lender in connection with the making of the Loan, or other accounting standards approved by Lender. Since the date of such financial statements, there has been no material adverse change in such financial condition, nor have any assets or properties reflected on such financial statements been sold, transferred, assigned, mortgaged, pledged or encumbered except as previously disclosed in writing by Borrower to Lender and approved in writing by Lender.

I. Reports. All reports, documents, instruments and information delivered to Lender in connection with the Loan: (a) are correct and sufficiently complete to give Lender accurate knowledge of their subject matter; and (b) do not contain any misrepresentation of a material fact or omission of a material fact which omission makes the provided information misleading.

J. Income Taxes. There are no pending assessments or adjustments of Borrower's or guarantor's, if any, income tax payable with respect to any year.

K. Subordination. There is no agreement or instrument to which Borrower is a party or by which Borrower is bound that would require the subordination in right of payment of any of Borrower's obligations under the Note to an obligation owed to another party.

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L. Title. Borrower lawfully holds and possesses fee simple title to the Property, without limitation on the right to encumber same. This Mortgage is a first lien on the Property prior and superior to all other liens and encumbrances on the Property except: (a) liens for real estate taxes and assessments not yet due and payable; (b) senior exceptions previously approved by Lender and shown in the title insurance policy insuring the lien of this Mortgage; and (c) other matters, if any, previously disclosed to Lender by Borrower in a writing specifically referring to this representation and warranty.

M. Mechanics' Liens. There are no mechanics' or similar liens or claims which have been filed for work, labor or material (and no rights are outstanding that under law could give rise to any such liens) affecting the Property which are or may be prior to or equal to the lien of this Mortgage.

N. Encroachments. To the best of Borrower's knowledge, except as shown in the survey, if any, previously delivered to Lender, none of the buildings or other improvements which were included for the purpose of determining the appraised value of the Property lies outside of the boundaries or building restriction lines of the Property and no buildings or other improvements located on adjoining properties encroach upon the Property.

O. Leases. All existing Leases, if any, are in full force and effect and are enforceable in accordance with their respective terms. No material breach or default by any party, or event which would constitute a material breach or default by any party after notice or the passage of time, or both, exists under any existing Lease. None of the landlord's interests under any of the Leases, including, but not limited to, rents, additional rents, charges, issues or profits, has been transferred or assigned. No rent or other payment under any existing Lease has been paid by any tenant for more than one (1) month in advance.

P. Collateral. Borrower has good title to the existing Collateral. Borrower has not previously assigned or encumbered Borrower's interest in any of the Collateral, and no financing statement covering any of the Collateral has been delivered to any other person or entity. Borrower's principal place of business is located at the address shown in this Mortgage.

Q. Condition and Use of Property. Except as shown in the property condition survey or other engineering reports, if any, previously delivered to or obtained by Lender, the Property is in good condition and repair and is free from any damage, waste or defect that would materially and adversely affect the value of the Property as security for the Loan or the intended use of the Property. The Property is and shall remain for the term of Loan exclusively used for the commercial purpose.

R. Wetlands. No part of the Property consists of or is classified as wetlands, tidelands or swamp and overflow lands.

S. Compliance With Laws; ERISA.

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1. All federal, state and local laws, rules and regulations applicable to the Property, including, without limitation, all zoning and building requirements and all requirements of the Americans With Disabilities Act of 1990, as amended from time to time (42 U.S.C. Section 12101 et seq.) have been satisfied or complied with. Borrower is in possession of all certificates of occupancy and all other licenses, permits and other authorizations required by applicable law for the existing use of the Property. All such certificates of occupancy and other licenses, permits and authorizations are valid and in full force and effect.

2. Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Mortgage and the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Borrower is not or will not be an "employee benefit plan" as defined in Section 3(32) of ERISA, which is subject to Title I of ERISA, and the assets of Borrower do not and will not constitute "plan assets" of one or more such plans for purposes of Title I of ERISA. Borrower is not or will not be a "governmental plan" within the meaning of Section 3(32) of ERISA, and transactions by or with Borrower are not and will not be subject to state statutes applicable to Borrower regulating investments of and fiduciary obligations with respect to governmental plans.

T. Property Taxes and Other Liabilities. All taxes, governmental assessments, insurance premiums, water, sewer and municipal charges, and ground rents, if any, which previously became due and owing in respect of the Property have been paid.

U. Condemnation. There is no proceeding pending or threatened for the total or partial condemnation of the Property.

V. Homestead. There is no homestead or other exemption available to Borrower which would materially interfere with the right to sell the Property at a trustee's sale or the right to foreclose this Mortgage.

Survival of Representations and Warranties. All representations, warranties, and agreements made by Mortgagor in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature, and shall remain in full force and effect until such time as the Note shall be paid in full.

VIII. ENVIRONMENTAL HAZARDS.

A. Compliance. Borrower shall comply with all covenants, conditions, provisions, and obligations of Borrower under the Environmental Indemnity Agreement, and Borrower shall comply with all "**Hazard Substance Laws**" (as defined in the Environmental Indemnity Agreement).

B. Covenants. Borrower further agrees as follows:

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1. With or without notice, and without releasing Borrower from any obligation hereunder, to cure any default of Borrower and, in connection therewith, Lender or its agents, acting by themselves or through a court appointed receiver, may enter upon the Property or any part thereof and perform such acts and things as Lender deems necessary or desirable to inspect, investigate, assess, and protect the security hereof, including without limitation of any of its other rights: (i) to obtain a court order to enforce Lender's right to enter and inspect the Property under the Act, to which the decision of Lender as to whether there exists a release or threatened release of "Hazardous Substances" (as defined in the Environmental Indemnity Agreement) in or onto the Property shall be deemed reasonable and conclusive as between the parties hereto; and (ii) to have a receiver appointed under the Act to enforce Lender's right to enter and inspect the Property for Hazardous Substances. All costs and expenses reasonably incurred by Lender with respect to the audits, tests, inspections, and examinations which Lender or its agents or employees may conduct, including the fees of the engineers, laboratories, contractor, consultants, and attorneys, shall be paid by Borrower. All reimbursement costs and expenses incurred by Lender pursuant to this subparagraph (including, without limitation, court costs, consultant fees and attorneys' fees, whether incurred in litigation or not and whether before or after judgment) shall be added to the Indebtedness and shall bear interest at the Default Rate from the date they are incurred until said sums have been paid.

2. Lender may seek a judgment that Borrower has breached its covenants, representations and/or warranties with respect to the environmental matters set forth herein, by commencing and maintaining an action or actions in any court of competent jurisdiction for breach of contract pursuant to the Act, whether commenced prior to foreclosure of the Property, and to seek the recovery of any and all costs, damages, expenses, fees, penalties, fines, judgments, indemnification payments to third parties, and other out-of-pocket costs or expenses actually incurred by Lender (collectively, "Environmental Costs") incurred or advanced by Lender relating to the cleanup, remediation or other response action, required by applicable law or to which Lender believes necessary to protect the Property, it being conclusively presumed between Lender and Borrower that all such Environmental Costs incurred or advanced by Lender relating to the cleanup, remediation, or other response action of or to the Property were made by Lender in good faith. All Environmental Costs incurred by Lender under this subparagraph (including, without limitation, court costs, consultant fees and attorneys' fees, whether incurred in litigation or not and whether before or after judgment) shall bear interest at the Default Rate (as defined in the Note) from the date of expenditure until said sums have been paid. Lender shall be entitled to bid, at the sale of the Property, the amount of said costs, expenses and interest in addition to the amount of the other obligations hereby secured as a credit bid, the equivalent of cash. Borrower acknowledges and agrees that notwithstanding any term or provision contained herein or elsewhere, the Environmental Costs shall be exceptions to any limited recourse or exculpatory provision, if applicable, and Borrower shall be fully and personally liable for the Environmental Costs hereunder, and such liability shall not be limited to the original principal amount of the Obligations secured by this Mortgage, and the Property or this Mortgage. For the purposes of any action brought under this subparagraph, Borrower hereby waives the defense of laches and any applicable statute of limitations.

3. Lender may waive its lien against the Property or any portion thereof, whether fixtures or personal property, to the extent such property is found to be environmentally impaired

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in accordance with the Act and to exercise any and all rights and remedies of an unsecured creditor against Borrower and all of Borrower's assets and property for the recovery of any deficiency and Environmental Costs, including, but not limited to, seeking an attachment order under the Act. As between Lender and Borrower, for purposes of the Act, Borrower shall have the burden of proving that Borrower or any related party (or any affiliate or agent of Borrower or any related party) was not in any way negligent in permitting the release or threatened release of Hazardous Substances. Borrower acknowledges and agrees that notwithstanding any term or provision contained herein or elsewhere, all judgments and awards entered against Borrower shall be exceptions to any nonrecourse or exculpatory provision, and Borrower shall be fully and personally liable for all judgments and awards entered against Borrower hereunder and such liability shall not be limited to the original principal amount of the obligations secured by this Mortgage and Borrower's obligations shall survive the foreclosure, deed in lieu of foreclosure, release, reconveyance, or any other transfer of the Property or this Mortgage. For the purposes of any action brought under this subparagraph, Borrower hereby waives the defense of laches and any applicable statute of limitations.

C. Distinct Covenants. Notwithstanding anything to the contrary in this Section: (a) Borrower's obligations pursuant to this Section are specific to this Mortgage; and (b) the Environmental Indemnity Agreement remains separate here from and shall survive, in each case, release, reconveyance, or other termination or satisfaction of this Mortgage.

IX. INDEMNIFICATION; LIMITATION OF LIABILITY.

A. Indemnity. Without in any way limiting any other indemnity contained in this Mortgage, Borrower agrees to defend, indemnify and hold harmless the Lender Group (hereinafter defined) from and against any claim, loss, damage, cost, expense or liability directly or indirectly arising out of: (a) the making of the Loan, except for willful violations of laws or regulations by the Lender Group; (b) this Mortgage; (c) the execution of this Mortgage or the performance of any act required or permitted hereunder or by law; (d) any failure of Borrower to perform Borrower's obligations under this Mortgage or the other Loan Documents; (e) any alleged obligation or undertaking on the Lender Group's part to perform or discharge any of the representations, warranties, conditions, covenants or other obligations contained in any other document related to the Property; (f) any act or omission by Borrower or any contractor, agent, employee or representative of Borrower with respect to the Property; or (g) any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Lender's sole discretion, that Lender may incur, directly or indirectly, as a result of an Event of Default. The foregoing to the contrary notwithstanding, this indemnity shall not include any claim, loss, damage, cost, expense or liability directly or indirectly arising out of the gross negligence or willful misconduct of any member of the Lender Group, or any claim, loss, damage, cost, expense or liability incurred by the Lender Group arising from any act or incident on the Property occurring after the full reconveyance and release of the lien of this Mortgage on the Property. This indemnity shall include, without limitation: (aa) all consequential damages (including, without limitation, any third party tort claims or governmental claims, fines or penalties against the Lender Group); and (bb) all court costs and reasonable attorneys' fees (including, without limitation, expert witness fees) paid or incurred by the Lender Group. "**Lender Group**", as used herein, shall mean (1)

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Lender (including, without limitation, any participant in the Loan); (2) any entity controlling, controlled by or under common control with Lender; (3) the directors, officers, employees and agents of Lender and such other entities; and (4) the successors, heirs and assigns of the entities and persons described in foregoing clauses (1) through (3). Borrower shall pay immediately upon Lender's demand any amounts owing under this indemnity together with interest from the date the indebtedness arises until paid at the rate of interest applicable to the principal balance of the Note as specified therein. Borrower agrees to use legal counsel reasonably acceptable to the Lender Group in any action or proceeding arising under this indemnity. THE PROVISIONS OF THIS SECTION SHALL SURVIVE THE TERMINATION AND RELEASE OF THIS MORTGAGE, BUT BORROWER'S LIABILITY UNDER THIS INDEMNITY SHALL BE SUBJECT TO THE PROVISIONS OF THE SECTION, IF ANY, IN THE NOTE ENTITLED "BORROWER'S LIABILITY".

B. Excemption. Lender shall not directly or indirectly, be liable to Borrower or any other person as a consequence of: (a) the exercise of the rights, remedies or powers granted to Lender in this Mortgage; (b) the failure or refusal of Lender to perform or discharge any obligation or liability of Borrower under any agreement related to the Property or under this Mortgage; or (c) any loss sustained by Borrower or any third party resulting from Lender's failure to lease the Property after an "Event of Default" or from any other act or omission of Lender in managing the Property after an Event of Default unless the loss is caused by the willful misconduct and bad faith of Lender and no such liability shall be asserted or enforced against Lender, all such liability being expressly waived and released by Borrower.

X. DEFAULT. An "Event of Default" shall occur automatically upon the occurrence of any one or more of the following events:

A. Monetary. Borrower shall fail to: (a) pay when due any sums which by their express terms require immediate payment without any grace period or sums which are payable on the Maturity Date; or (b) pay within five (5) days when due any other sums payable under the Note, this Mortgage or any of the other Loan Documents, including, without limitation, any monthly payment due under the Note.

B. Failure to Perform. Borrower shall fail to observe, perform or discharge any of Borrower's or Borrower's obligations, covenants, conditions or agreements, other than Borrower's or Borrower's payment obligations, under the Note, this Mortgage or any of the other Loan Documents, and (a) such failure shall remain uncured for thirty (30) days after written notice thereof shall have been given to Borrower, as the case may be, by Lender; or (b) if such failure is of such a nature that it cannot be cured within such thirty (30) day period, Borrower shall fail to commence to cure such failure within such thirty (30) day period or shall fail to diligently prosecute such curative action thereafter or shall fail to cure such default within ninety (90) days after written notice thereof was first given to Borrower.

C. Breach of Other Mortgage. Any breach by Mortgagor under the terms of any other agreement between Mortgagor or Mortgagor that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Mortgagor to Mortgagee, whether existing now or later.

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D. Representations and Warranties. Any representation, warranty, certificate or other statement (financial or otherwise) made or furnished by or on behalf of Borrower, or a guarantor, if any, to Lender or in connection with any of the Loan Documents, or as an inducement to Lender to make the Loan, shall be false, incorrect, incomplete or misleading in any material respect when made or furnished.

E. Condemnation, Attachment. The condemnation, seizure or appropriation of any material portion (as reasonably determined by Lender) of the Property, or the sequestration or attachment of, or levy or execution upon any of the Property, the Collateral or any other collateral provided by Borrower under any of the Loan Documents, or any material portion of the other assets of Borrower, which sequestration, attachment, levy or execution is not released or dismissed within forty-five (45) days after its occurrence; or the sale of any assets affected by any of the foregoing.

F. Uninsured Casualty. The occurrence of an uninsured casualty with respect to any material portion (as reasonably determined by Lender) of the Property unless: (a) no other Event of Default has occurred and is continuing at the time of such casualty or occurs thereafter; (b) Borrower promptly notifies Lender of the occurrence of such casualty; and (c) not more than forty-five (45) days after the occurrence of such casualty, Borrower delivers to Lender immediately available funds ("**Restoration Funds**") in an amount sufficient, in Lender's reasonable opinion, to pay all costs of the repair or restoration (including, without limitation, taxes, financing charges, insurance and rent during the repair period). So long as no Event of Default has occurred and is continuing at the time of Lender's receipt of the Restoration Funds and no Event of Default occurs thereafter, Lender shall make the Restoration Funds available for the repair or restoration of the Property. Notwithstanding the foregoing, Lender shall have no obligation to make any Restoration Funds available for repair or restoration of the Property unless and until all the conditions set forth herein have been satisfied.

G. Adverse Financial Change. Any adverse change in the financial condition of Borrower or any member, managing member, general partner, director or shareholder (as the case may be) of Borrower, any guarantor, or any other person or entity from the condition shown on the financial statements submitted to Lender and relied upon by Lender in making the Loan, and which change Lender reasonably determines will have a material adverse effect on (a) the business, operations or condition of the Property; or (b) the ability of Borrower to pay or perform Borrower's or Borrower's obligations in accordance with the terms of the Note, this Mortgage, and the other Loan Documents.

H. Voluntary Bankruptcy, Insolvency, Dissolution. (a) Borrower's filing a petition for relief under the Bankruptcy Reform Act of 1978, as amended or recodified ("**Bankruptcy Code**"), or under any other present or future state or federal law regarding bankruptcy, reorganization or other relief to debtors (collectively, "**Debtor Relief Law**"); or (b) Borrower's filing any pleading in any involuntary proceeding under the Bankruptcy Code or other Debtor Relief Law which admits the jurisdiction of a court to regulate Borrower or the Property or the petition's material allegations regarding Borrower's insolvency; or (c) Borrower's making a general assignment for the benefit of creditors; or (d) Borrower's applying for, or the

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appointment of, a receiver, trustee, custodian or liquidator of Borrower or any of its property; or (e) the filing by or against Borrower of a petition seeking the liquidation or dissolution of Borrower or the commencement of any other procedure to liquidate or dissolve Borrower.

I. Involuntary Bankruptcy. Borrower's failure to effect a full dismissal of any involuntary petition under the Bankruptcy Code or other Debtor Relief Law that is filed against Borrower or in any way restrains or limits Borrower or Lender regarding the Loan or the Property, prior to the earlier of the entry of any order granting relief sought in the involuntary petition or forty-five (45) days after the date of filing of the petition.

J. Dissolution. If Borrower, any of the guarantors, or any general partner or manager of Borrower is a corporation, partnership, limited liability company or trust, the dissolution, liquidation, or termination of existence of such entity.

K. Transfers of Corporation Ownership. Any Transfer contrary to this Mortgage, including, without limitation, if Borrower is a corporation, the direct or indirect sale or transfer of an aggregate of more than forty-nine percent (49%) of any class of stock in such corporation or the issuance by such corporation of additional stock to any person who is not a shareholder in such corporation as of the date of this Mortgage.

L. Transfer of Limited Liability Company Ownership. Any Transfer contrary to this Mortgage, including, without limitation, if Borrower is a limited liability company, (a) the appointment, withdrawal, death, retirement or removal of any manager of Borrower or (b) the direct or indirect sale or transfer of an aggregate of more than forty-nine percent (49%) of the beneficial interests of Borrower, or, in addition to the foregoing, Lender's receipt of any conflicting written instructions or written demands relating to the Loan from any members of Borrower which Lender reasonably determines have a material adverse effect on Lender's ability to service or administer the Loan.

M. Death; Incompetency. If Borrower, any of the guarantors, or any general partner or manager of Borrower is an individual, the death or incompetency of such Person, except where applicable law limits or prohibits Lender's declaration of a default based on such occurrences; provided, however, that Lender shall not declare an Event of Default to exist based solely on the death or mental incompetence of any individual guarantor, General Partner, or Manager if, within ninety (90) days after the occurrence of such event, (a) in the case of the death or mental incompetence of a guarantor, Borrower causes a substitute guarantor to execute and deliver to Lender a continuing Guarantee in the form previously executed by the affected guarantor, and Lender in good faith determines that such substitute guarantor's financial condition is comparable to that of the affected guarantor and that such substitute guarantor is otherwise reasonably acceptable to Lender; and (b) in the case of the death or mental incompetence of a general partner or manager, Borrower causes a substitute general partner or manager, as applicable, to be admitted to Borrower or appointed, and Lender in good faith determines that the financial condition, credit history, character, experience, ability and expertise of such substitute general partner or manager are comparable to the affected general partner or manager and that such substitute general partner or manager is otherwise acceptable to Lender.

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N. Impairment of Priority. If (a) the priority of this Mortgage or Lender's security interest under any of the other agreements securing any or all of the Obligations is impaired for any reason; or (b) the value of the Property has deteriorated, declined or depreciated as a result of any intentional tortious act or omission by Borrower.

O. Condemnation. If all or any material part of the Property is transferred to any Governmental Authority as a result of any condemnation proceeding or action with respect to all or any material part of the Property.

P. Failure to Repair Casualty. If there is an uninsured casualty with respect to the Property, and Borrower (a) fails to commence repairs and reconstruction of the Property within ninety (90) days after such damage; or (b) thereafter fails to diligently prosecute such repairs and reconstruction to completion.

Q. Transfers of Property. If Borrower transfers the Property or any part thereof without Lender's prior written consent.

R. Default by Guarantors. If any guarantor fails to pay any of its indebtedness or perform any of its obligations under any of the Guaranties when due or the revocation, limitation or termination or attempted revocation, limitation or termination of any of the obligations of any guarantor under any of the Guaranties, except in accordance with the express written terms of the Guaranties.

S. Misrepresentation by Guarantors. If any request, statement, information, certification, or representation, whether written or oral, submitted or made by any guarantor to Lender in connection with the Loan or any other extension of credit by Lender to Borrower or such guarantor is false or misleading in any material respect.

XI. RIGHTS AND REMEDIES. Upon the occurrence of an Event of Default and at any time thereafter, Mortgagee, at Mortgagee's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

A. Acceleration. Mortgagee shall have the right at its option without notice to Mortgagor to declare the entire Note immediately due and payable, including any prepayment penalty which Mortgagor would be required to pay, each of said amounts shall bear interest at the Default Rate as defined in the Note.

B. Attorney in Fact. In order to facilitate Mortgagee's exercise of the rights, powers and remedies granted above, Mortgagor hereby irrevocably appoints Mortgagee its true and lawful attorney to act in its name and stead for the purpose of effectuating any sale, assignment, transfer or delivery authorized above, whether pursuant to power of sale or otherwise, and to execute and deliver all such deeds, bills of sale, leases, assignments and other instruments as Mortgagee may deem necessary and appropriate. Notwithstanding the foregoing, if requested by Mortgagee or any purchaser from Mortgagee, Mortgagor shall ratify and confirm any such sale, assignment, transfer or delivery by executing and delivering to Mortgagee or such purchaser all appropriate deeds, bills of sale, leases, assignments and other instruments as may be designated in such

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request. Further, Mortgagor agrees that Mortgagee may be a purchaser of the Real Property or any part thereof or any interest therein at any sale, whether pursuant to power of sale or otherwise, and may apply upon the purchase price the indebtedness secured hereby. Any purchaser at any sale shall acquire good title to the property so purchased, free of the lien of this Mortgage and free of all rights of redemption in Mortgagor. The receipt of the officer making the sale under judicial proceedings or of Mortgagee shall be sufficient discharge to the purchaser for the purchase money and such purchaser shall not be responsible for the proper application thereof.

C. Right of Possession. With or without notice, and without releasing Borrower from any Secured Obligation, and without becoming a mortgagee in possession, to enter upon the Property from time to time and to do such acts and things as Lender deems necessary or desirable in order to inspect, investigate, assess and protect the security hereof or to cure any Event of Default, including, without limitation: (a) to take and possess all documents, books, records, papers and accounts of Borrower or the then owner of the Property which relate to the Property; (b) to make, terminate, enforce or modify leases of the Property upon such terms and conditions as Lender deems proper or elect to disaffirm any lease or sublease which is then subordinate to the lien hereof; (c) to make repairs, alterations and improvements to the Property necessary, in Lender's sole judgment, to protect or enhance the security hereof; (d) to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of Lender hereunder; (e) to pay, purchase, contest or compromise any encumbrance, charge, lien or claim of lien which, in the sole judgment of either Lender, is or may be senior in priority hereto, the judgment of Lender being conclusive, as between the parties hereto; (f) to insure and reinsure the Property and all risks incidental to Mortgagee's possession, operation and management thereof; (g) to pay any premiums or charges with respect to insurance required to be carried hereunder; and/or (h) to employ legal counsel, accountants, engineers, consultants, contractors and other appropriate persons to assist them.

D. Application of Income Received by Lender. Lender, in the exercise of the rights and powers hereinabove conferred upon it, shall have full power to use and apply the avails, rents, issues and profits of the Property to the payment of or on account of the following, in such order as Mortgagee may determine: (a) to the payment of the operating expenses of the Property, including cost of management and leasing thereof (which shall include compensation to Mortgagee and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (b) to the payment of taxes and special assessments now due or which may hereafter become due on the Property; and (c) to the payment of any Secured Obligations, including any deficiency which may result from any foreclosure sale.

E. Appointment of Receiver. To apply to a court of competent jurisdiction for and obtain appointment of a receiver of the Property as a matter of strict right and without regard to: (a) the adequacy of the security for the repayment of the Secured Obligations; (b) the existence of a declaration that the Secured Obligations are immediately due and payable; or (c) the filing of a notice of default; and Borrower consents to such appointment.

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F. Judicial Foreclosure, Injunction. To commence and maintain an action or actions in any court of competent jurisdiction (or outside in a nonjudicial foreclosure if permitted by Illinois law) to foreclose this instrument as a mortgage or to obtain specific enforcement of the covenants of Borrower hereunder, and Borrower agrees that such covenants shall be specifically enforceable by injunction or any other appropriate equitable remedy and that for the purposes of any suit brought under this subparagraph, Borrower waives the defense of laches and any applicable statute of limitations.

G. Foreclosure; Expense of Litigation. When all or any part of the Secured Obligations shall become due, whether by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Secured Obligations or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with Illinois foreclosure laws (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, Mortgagee is hereby authorized, without the consent of Mortgagor, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as Mortgagee may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies. In any suit to foreclose the lien hereof, there shall be allowed and included as additional Secured Obligations in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Property. All expenditures and expenses of the nature mentioned in this paragraph and such other expenses and fees as may be incurred in the enforcement of Mortgagor's Secured Obligations hereunder, the protection of said Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by Mortgagee in any litigation or proceeding affecting this Mortgage, the Note, or the Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by Mortgagor, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

H. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Property shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as Mortgagee may determine in its sole and absolute discretion.

I. Deficiency Judgment. If permitted by applicable law, Mortgagee may obtain a judgment for any deficiency remaining in the Note due to Mortgagee after application of all amounts received from the exercise of the rights provided in this Section.

J. Compliance Mortgage Foreclosure Law. If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act. Any provision of this

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Mortgage shall grant to Mortgagee (including Mortgagee acting as a mortgagee in possession) or a receiver appointed pursuant to the provisions herein any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in Mortgagee or in such receiver under the Act in the absence of said provision, Mortgagee and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

K. Election of Remedies. Election by Mortgagee to pursue any remedy shall not exclude pursuit of any other remedy, and an election to make expenditures or to take action to perform an obligation of Mortgagor under this Mortgage, after Mortgagor's failure to perform, shall not affect Mortgagee's right to declare a default and exercise its remedies. Nothing under this Mortgage or otherwise shall be construed so as to limit or restrict the rights and remedies available to Mortgagee following an Event of Default, or in any way to limit or restrict the rights and ability of Mortgagee to proceed directly against Mortgagor and/or against any other co-maker, guarantor, surety or endorser and/or to proceed against any other Collateral directly or indirectly securing the Note.

L. UCC Remedies. With respect to all or any part of the Property that is personal or intangible, Mortgagee shall have all the rights and remedies of a secured party under the UCC. Upon request, Mortgagor shall assemble and make such collateral available to Mortgagee at a place to be designated by Mortgagee which is reasonably convenient to both parties. Upon repossession, Mortgagee may propose to retain the collateral in partial satisfaction of the Note or sell the collateral at public or private sale in accordance with the UCC as adopted in the state where the Property is situated or any other applicable statute. Such sale may be held as a part of, distinctive from or without a trustee's sale or foreclosure of the real property secured by this Mortgage. If any notification of disposition of all or any portion of the Collateral is required by law, such notification shall be deemed reasonably and properly given if mailed at least ten (10) days prior to such disposition. If Mortgagee disposes of all or any part of the Collateral after default, the proceeds of disposition shall be applied in the following order: (a) to the reasonable expenses of retaking, holding, preparing for sale, selling the Collateral, and the like; (b) to the reasonable attorneys' fees and legal expenses incurred by Mortgagee; and (c) to the satisfaction of the indebtedness secured by this Mortgage.

M. Collection of Rents. Mortgagee may require any Mortgagor to make payments of rent or fees directly to Mortgagee regardless of whether Mortgagee has taken possession of the Property. If any rents are collected by Mortgagee, then Mortgagor irrevocably designates Mortgagee as Mortgagor's attorney-in-fact to endorse instruments received in payment thereof in the name of Mortgagor and to negotiate the same and collect the proceeds. Payments by tenants to Mortgagee in response to Mortgagee's demand shall satisfy the obligation for which the payments are made, whether or not any proper grounds for the demand existed. Mortgagee may exercise Mortgagee's rights under this paragraph either in person, by agent or through a receiver.

N. Marshaling Assets. Neither the Mortgagor, nor any person claiming under Mortgagor, shall have or enjoy any right to marshaling of assets, all such right being hereby expressly waived as to the Mortgagor and all persons claiming under Mortgagor, including junior lienors. No release of personal liability of any person whatever and no release of any portion of

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the property now or hereafter subject to the lien of any of the Mortgage Instruments shall have any affect whatever by way of impairment or disturbance of the lien or priority of any of said Mortgage Instruments. Any foreclosure or other appropriate remedy sought may be brought and prosecuted as to any part of the mortgaged security, wherever located, without regard to the fact that foreclosure proceedings or other appropriate remedies have or have not been instituted elsewhere on any other land subject to the lien of said Mortgage Instruments or any of them.

O. Application of Foreclosure Sale Proceeds. If any foreclosure sale is effected, Lender shall apply the proceeds of such sale in the following order of priority: First, to the costs, fees and expenses of exercising the power of sale and of the sale, including, without limitation, the payment of the Lender's attorneys' fees permitted pursuant to the Act; Second to the payment of the Secured Obligations which are secured by this Mortgage, in such order as Lender shall determine in its sole discretion; Third, to satisfy the outstanding balance of obligations secured by any junior liens or encumbrances in the order of their priority; and Fourth, to the Borrower or the Borrower's successor in interest, or in the event the Property has been sold or transferred to another, to the vested owner of record at the time of the foreclosure sale.

P. No Cure or Waiver. Neither Lender's nor any receiver's entry upon and taking possession of all or any part of the Property, nor any collection of rents, issues, profits, insurance proceeds, condemnation proceeds or damages, other security or proceeds of other security, or other sums, nor the application of any collected sum to any Secured Obligation, nor the exercise of any other right or remedy by Lender or any receiver shall cure or waive any Event of Default or notice of default under this Mortgage, or nullify the effect of any notice of default or sale (unless all Secured Obligations then due have been paid or performed and Borrower has cured all other Events of Default hereunder), or impair the status of the security, or prejudice Lender in the exercise of any right or remedy, or be construed as an affirmation by Lender of any tenancy, lease or option or a subordination of the lien of this Mortgage.

Q. Other Rights. To exercise such other rights as Lender may have at law or in equity or pursuant to the terms and conditions of this Mortgage or any of the other Loan Documents.

XII. MISCELLANEOUS.

A. Additional Provisions. The Loan Documents contain or incorporate by reference the entire agreement of the parties with respect to matters contemplated herein and supersede all prior negotiations. The Loan Documents grant further rights to Lender and contain further agreements and affirmative and negative covenants by Borrower which apply to this Mortgage and to the Property and such further rights and agreements are incorporated herein by this reference. THE OBLIGATIONS AND LIABILITIES OF BORROWER UNDER THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS ARE SUBJECT TO THE PROVISIONS OF THE SECTION, IF ANY, IN THE NOTE ENTITLED "**BORROWER'S LIABILITY.**"

B. Amendment and Modification. No amendment or modification of this Mortgage shall be valid or binding unless made in writing and signed by both parties.

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C. Applicable Law. All questions concerning the construction, validity, and interpretation of this Mortgage and the performance of the obligations imposed by this Mortgage shall be governed by the internal law, not the law of conflicts, of the State of Illinois.

D. Assignment and Binding Effect. The rights and benefits of Mortgagee under this Mortgage shall be transferable, and all covenants and agreements hereunder shall inure to the benefit of, and be enforceable by or against its successors and assigns, and this Mortgage shall not be terminated by voluntary or involuntary dissolution of the Mortgagee or by any merger or consolidation where the Mortgagee is not the surviving or resulting entity, or upon any transfer of substantially all of the assets of the Mortgagee, if in such transfer the transferee agrees to the assignment of this Mortgage. This Mortgage shall not be assignable by Mortgagor without the prior written consent of Mortgagee, which consent may be subject to terms and conditions as Mortgagee considers necessary in order to protect its interests; provided, however, that no assignment of this Mortgage, whether by act of Mortgagor or by operation of law, shall relieve or release Mortgagor from any of its obligations hereunder.

E. Attorneys' Fees. In the event it is necessary for Lender to retain the services of an attorney or any other party to enforce or to commence any legal action to enforce the terms of the Note, this Mortgage, or any of the other Loan Documents, or any portion hereof or thereof, Borrower agrees to pay to Lender, in addition to damages or other relief, any and all costs and expenses, including, without limitation, expert witness fees and reasonable attorney's fees incurred by Lender as a result thereof.

F. Consents and Approvals. Wherever Lender's consent, approval, acceptance or satisfaction is required under any provision of this Mortgage or any of the other Loan Documents, such consent, approval, acceptance or satisfaction shall be exercised in Lender's sole and absolute discretion, unless otherwise provided for herein.

G. Consent to Jurisdiction. Borrower irrevocably submits to the Jurisdiction of: (a) any state or federal court sitting in the State of Illinois over any suit, action, or proceeding, brought by Borrower against Lender, arising out of or relating to this Mortgage, the Note or the Loan; (b) any state or federal court sitting in the state where the Property is located or the state in which Borrower's principal place of business is located over any suit, action or proceeding, brought by Lender against Borrower, arising out of or relating to this Mortgage, the Note or the Loan; and (c) any state court sitting in the county of the state where the Property is located over any suit, action, or proceeding, brought by Lender to exercise its STATUTORY POWER OF SALE under this Mortgage or any action brought by Lender to enforce its rights with respect to the Collateral. Borrower irrevocably waives, to the fullest extent permitted by law, any objection that Borrower may now or hereafter have to the laying of venue of any such suit, action, or proceeding brought in any such court and any claim that any such suit, action, or proceeding brought in any such court has been brought in an inconvenient forum.

H. Cooperation. The parties agree to cooperate with each other during the term of this Mortgage and thereafter. In the event a problem arises, each party will use its best efforts to solve and not aggravate said problem.

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I. Counterparts. This Mortgage may be executed in any number of counterparts, each of which, when executed and delivered, will be deemed an original and all of which taken together, will be deemed to be one and the same instrument.

J. Defined Terms. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Note.

K. Disclaimers.

1. Relationship. The relationship of Borrower and Lender under this Mortgage and the other Loan Documents is, and shall at all times remain, solely that of borrower and lender; and Lender neither undertakes nor assumes any responsibility or duty to Borrower or to any third party with respect to the Property. Notwithstanding any other provisions of this Mortgage and the other Loan Documents: (a) Lender is not, and shall not be construed to be, a partner, joint venturer, member, alter ego, manager, controlling person or other business associate or participant of any kind of Borrower, and Lender does not intend to ever assume such status; (b) Lender's activities in connection with this Mortgage and the other Loan Documents shall not be "outside the scope of activities of a Lender of money", and Lender does not intend to ever assume any responsibility to any person for the quality, suitability, safety or condition of the Property; and (c) Lender shall not be deemed responsible for or a participant in any acts, omissions or decisions of Borrower.

2. No Liability. Lender shall not be directly or indirectly liable or responsible for any loss, claim, cause of action, liability, indebtedness, damage or injury of any kind or character to any person or property arising from any construction or occupancy or use of, the Property, whether caused by or arising from: (a) any defect in any building, structure, grading, fill, landscaping or other improvements thereon or in any on-site or off-site improvement or other facility therein or thereon; (b) any act or omission of Borrower or any of Borrower's agents, employees, independent contractors, licensees or invitees; (c) any accident in or on the Property or any fire, flood or other casualty or hazard thereon; (d) the failure of Borrower or any of Borrower's licensees, employees, invitees, agents, independent contractors or other representatives to maintain the Property in a safe condition; or (e) any nuisance made or suffered on any part of the Property.

L. Further Assurances. Borrower shall, upon demand by Lender, execute, acknowledge (if appropriate) and deliver any and all documents and instruments and do or cause to be done all further acts reasonably necessary or appropriate to effectuate the provisions hereof.

M. Incorporation by Reference. All exhibits to this Mortgage, and all documents (including without limitation all exhibits, schedules, certificates, lists and financial statements) delivered as part hereof or incident hereto, are incorporated as a part of this Mortgage by reference.

N. Integration; Interpretation. The Loan Documents contain or expressly incorporate by reference the entire agreement of the parties with respect to the matters contemplated therein and supersede all prior negotiations or agreements, written or oral. The Loan Documents shall

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not be modified except by written instrument executed by all parties. Any reference in any of the Loan Documents to the Property or Collateral shall include all or any part of the Property or Collateral. Any reference to the Loan Documents includes any amendments, renewals or extensions now or hereafter approved by Lender in writing (it being understood that no amendment or modification of the Loan Documents shall be valid and binding against Lender unless signed by an officer of Lender holding the title of Executive Vice President or higher). When the identity of the parties or other circumstances make it appropriate, the masculine gender includes the feminine and/or neuter, and the singular number includes the plural.

O. Legal Counsel. The parties hereby acknowledge that they have read and understand all of the terms of this Mortgage; that they executed it voluntarily and with full knowledge of its legal significance; that they have sought and received legal advice regarding the agreement; that they have had an opportunity to negotiate its terms; and that their execution of this Mortgage has not been forced or coerced.

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

Q. No Usury. The Loan proceeds are to be used, along with Mortgagor's other funds, for the acquisition of the Property, and for no other purposes, which shall occur contemporaneously with the disbursement of the Loan Proceeds. Such use is the business purpose of Mortgagor's beneficiaries and the Loan is therefore not usurious under applicable Illinois law.

R. Notice. Any notice or communication required or permitted to be given under this Note shall be in writing and shall be delivered: (a) personally; (b) by a reputable overnight courier; (c) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid; (d) by facsimile; or (e) by electronic mail. Notices shall be addressed to, and delivered at, the following address:

If to Lender: Yoshiharu Wakura
Address: 222 S Morgan Street Suite 4D
Chicago, Illinois 60607
Phone: (312) 344-1590
(650) 433-5495

If to Borrower: YY Halsted LLC
Address: 222 S Morgan Street Suite 4D
Chicago, Illinois 60607
Phone: (312) 344-1590
(650) 433-5495

A notice must be addressed to the recipient signatory at the address stated herein or at the recipient's last known address. (1) A notice delivered personally will be deemed given only when acknowledged in writing by the person to whom it is delivered. (2) A notice sent by recognized overnight delivery service will be deemed given when received or refused. (3) A notice that is sent by certified mail will be deemed given three (3) business days after it is

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mailed. (4) A notice sent by facsimile shall be deemed given if confirmed by a fax activity report. (5) A notice sent by email shall be deemed given if confirmed by a delivery receipt or a read receipt. By notice complying with the requirements of this Section, each party shall have the right to change the address or the addressee, or both, for all future notices and communications to such party, but no notice of a change of addressee or address shall be effective until actually received.

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

U. Permitted Contests. After prior written notice to Lender, Borrower may contest, by appropriate legal or other proceedings conducted in good faith and with due diligence, the amount, validity or application, in whole or in part, of any lien, levy, tax or assessment, or any lien of any laborer, mechanic, materialman, supplier or vendor, or the application to Borrower or the Property of any law or the validity thereof, the assertion or imposition of which, or the failure to pay when due, would constitute an Event of Default; subject to the requirements that: (a) Borrower pursues the contest diligently, in a manner which Lender determines is not prejudicial to Lender, and does not impair the lien of this Mortgage; (b) the Property, or any part hereof or estate or interest therein, shall not be in any danger of being sold, forfeited or lost by reason of such proceedings; (c) in the case of the contest of any law or other legal requirement, Lender shall not be in any danger of any civil or criminal liability; and (d) if required by Lender, Borrower deposits with Lender any funds or other forms of assurance (including a bond or letter of credit) satisfactory to Lender to protect Lender from the consequences of the contest being unsuccessful. Borrower's right to contest pursuant to the terms of this provision shall in no way relieve Borrower of its obligations under the Loan or to make payments to Lender as and when due.

V. Relationship of Sections. The rights, remedies and interests of Lender under this Mortgage and the security agreement established herein, are independent and cumulative, and there shall be no merger of any lien created by this Mortgage with any security interest created by the security agreement. Lender may elect to exercise or enforce any of its rights, remedies or interests under either or both this Mortgage or the security agreement as Lender may from time to time deem appropriate. The Assignment of Rents and Leases established herein is similarly independent of and separate from this Mortgage and the Security Agreement.

W. Section Titles, Headings, Captions, etc. The headings herein are inserted as a matter of convenience only, and do not define, limit, or describe the scope of this Mortgage or the intent of the provisions hereof, are not to be considered in construing this Mortgage, and where inconsistent with the text, are to be disregarded.

X. Severability. Both parties hereby expressly agree that it is not the intention of either party to violate any public policy, statutory or common law, and that if any provision of this Mortgage is ultimately determined to be invalid as applied to any fact or circumstance, it is their desire that such provision shall be modified by the minimum extent necessary to render it valid and it shall not affect any other provision or the same provision, applied to any other fact or

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circumstance.

Y. Successors in Interest. The terms, covenants, and conditions herein contained shall be binding upon and inure to the benefit of the heirs, successors and assigns of the parties hereto. The foregoing sentence shall not be construed to permit Borrower to assign the Loan except as otherwise permitted under the Note or the other Loan Documents.

Z. Survival. Unless otherwise provided for herein, the representations, warranties, and covenants of the parties to this Mortgage which are contained in this Mortgage shall survive the consummation of the transactions contemplated by this Mortgage.

AA. Time is of the Essence. Time is of the essence with respect to all of Borrower's obligations and agreements hereunder with respect to, in each case, (a) the payment of money; (b) where any deadline or period for performance is provided; and (c) where notice, reports, or other information is required to be delivered to Lender.

BB. Waiver. No delay or failure by Mortgagee to insist upon the strict performance of any term hereof or of the Note or to exercise any right, power or remedy provided for herein or therein as a consequence of an Event of Default hereunder or thereunder, and no acceptance of any payment of the principal, interest or premium, if any, on the Note during the continuance of any such Event of Default, shall constitute a waiver of any such term, such Event of Default or such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver of any Event of Default hereunder shall affect or alter this Mortgage, which shall continue in full force and effect with respect to any other then existing or subsequent Events of Default.

CC. Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER 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 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 BORROWER, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BENEFICIARY IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY BORROWER.

DD. Waiver of Right of Redemption. NOTWITHSTANDING ANY OF THE PROVISIONS TO THE CONTRARY CONTAINED IN THIS MORTGAGE, BORROWER HEREBY WAIVES, TO THE EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS OF REDEMPTION ON BORROWER'S BEHALF AND ON BEHALF OF ANY OTHER PERSONS PERMITTED TO REDEEM THE PROPERTY.

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IN WITNESS WHEREOF, Borrower has executed this Mortgage as of the day and year set forth above.

BORROWER:

YY HALSTED LLC,
an Illinois limited liability company,

By: 和倉 康博
~~Name as Intro Makur~~
Its: Manager

*[Remainder of Page Intentionally Left Blank]
[Notary Page to Follow]*

Property of Cook County Clerk's Office
COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387
COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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STATE OF _____)
) SS.
COUNTY OF _____)

I, the undersigned, a notary public in and for the county and state above, do hereby certify that Yasuhiro Wakura, who proved to my satisfaction that he/she is described in and who executed the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the instrument, as his/her free and voluntary act, for the uses and purposes stated above

Given under my hand and notarial seal this ____ day of _____ in the year 2022.

Notary Public

(Affix Notary Seal)

Property of Cook County Clerk's Office
COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387
7831-20909

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EXHIBIT "A" LEGAL DESCRIPTION

LOT 61 IN SCOTT'S SUBDIVISION OF THE WEST 1/2 OF THE WEST 1/2 OF BLOCK 1 IN SHEFFIELD'S ADDITION TO CHICAGO IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Address: 1653 N. Halsted St., Chicago, Illinois

Property Index Number: 14-33-313-019-0000

Property of Cook County Clerk's Office

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

COOK COUNTY CLERK OFFICE
RECORDING DIVISION
118 N. CLARK ST. ROOM 120
CHICAGO, IL 60602-1387

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Registered No, **752** of 2022

NOTARIAL CERTIFICATE

This is to certify that Tsubasa Nakagawa, an agent of Yasuhiro Wakura has stated in my very presence that said Yasuhiro Wakura acknowledged himself to have signed to the attached document.

Dated this 29th. day of November, 2022

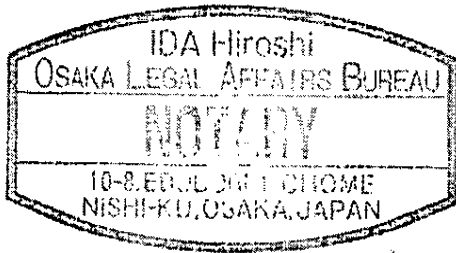
Osaka Legal Affairs Bureau

Notary

IDA Hiroshi

IDA Hiroshi

10-8, Edobori 1-chome Nishi-ku, Osaka Japan



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令和 4 年 登簿 第 752 号
認 証

囑託人 和倉康博 の代理人 中川翼 は、当公証人の面前で囑託人が添付書面にある囑託人の署名を自認した旨陳述した。

以上

よって、これを認証する。

令和 4 年 11 月 29 日、本公証人役場において

大阪市西区江戸堀1丁目10番8号

大阪法務局所属

公証人

Notary

井田

宏



IDA Hiroshi

証 明

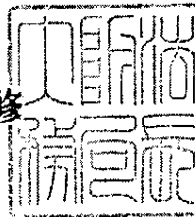
上記署名は、大阪法務局所属公証人の署名に相違ないものであり、かつ、その押印は、真実のものであることを証明する。

令和 4 年 11 月 29 日

大阪法務局長

山 地

修



APOSTILLE

(Convention de La Haye du 5 octobre 1961)

- 1. Country: JAPAN
This public document
- 2. has been signed by IDA Hiroshi
- 3. acting in the capacity of Notary of the Osaka Legal Affairs Bureau
- 4. bears the seal/stamp of IDA Hiroshi, Notary
Certified
- 5. at Osaka
- 6. NOV. 29. 2022
- 7. by the Ministry of Foreign Affairs
- 8. 22-Na 009231
- 9. Seal/stamp:
- 10. Signature



福谷佳津美

FUKUTANI Katsumi

For the Minister for Foreign Affairs