

Illinois Anti-Predatory
Lending Database
Program

Doc#: 2313733288 Fee: \$98.00
Karen A. Yarbrough
Cook County Clerk
Date: 05/17/2023 01:22 PM Pg: 1 of 15

Certificate of Exemption



Report Mortgage Fraud
844-768-1713

The property identified as: **PIN:** 18-07-418-059-1006

Address:

Street: 5301 Commonwealth Ave

Street line 2:

City: Western Springs

State: IL

ZIP Code: 60558

Lender: BMO Harris Bank NA

Borrower: J Thomas Eller and Kathleen M Eller, husband and wife, as tenants by the entirety

Loan / Mortgage Amount: \$308,000.00

This property is located within the program area and the transaction is exempt from the requirements of 765 ILCS 77/70 et seq. because the application was taken by an exempt entity or person.

Certificate number: 22D9E151-0EF6-41AE-94B7-6087A08A6EE1

Execution date: 5/10/2023

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Return To: BMO Harris Bank N.A.

Attn: Retail Post Closing

401 N. Executive Drive

Brookfield, WI 53005

Prepared By: Alesha Jungwirth

180 N Executive Dr., 3rd floor

Brookfield, WI 53005

Mortgage

With Future Advance Clause

The date of this Mortgage ("*Security Instrument*") is May 10, 2023.

Mortgagor

J Thomas Eller and Kathleen M Eller, husband
and wife, as tenants by the entirety
5301 Commonwealth Ave
Western Springs, IL 60558

Lender

BMO Harris Bank N.A.
Organized and existing under the laws of the
United States
320 S Canal St
Chicago, IL 60606

1. Conveyance. For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Mortgagor's performance under this Security Instrument, Mortgagor grants, bargains, sells, conveys, mortgages and warrants to Lender the following described property:

PARCEL 1: UNIT 5301 COMMONWEALTH IN COMMONWEALTH IN THE VILLAGE-SOUTH, A CONDOMINIUM AS DELINEATED ON THE SURVEY OF CERTAIN LOTS OR PARTS OF COMMONWEALTH IN THE VILLAGE UNIT 4, A RESIDENTIAL PLANNED UNIT DEVELOPMENT, BEING A RESUBDIVISION OF PART OF SECTION 7, TOWNSHIP 38 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED DECEMBER 8, 2003, AS DOCUMENT 0334231109, AS AMENDED FROM TIME TO TIME, IN



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COOK COUNTY, ILLINOIS, TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, PARCEL 2: NON-EXCLUSIVE EASEMENT FOR INGRESS AND EGRESS IN FAVOR OF PARCEL 1 CREATED BY THE PLAT OF SUBDIVISION OF COMMONWEALTH IN THE VILLAGE UNIT 4 RECORDED AS DOCUMENT 96902169 OVER AND UPON OUTLOT A IN SAID SUBDIVISION.

Parcel ID Number: 18-07-418-059-1006

The property is located in Cook County at 5301 Commonwealth Ave , Western Springs, Illinois 60558.

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

2. Secured Debt. The term "Secured Debt" is defined as follows:

- (A) Debt incurred under the terms of all promissory note(s), contract(s), guaranty(ies) or other evidence of debt described below and all their extensions, renewals, refinancings, modifications or substitutions.

The credit agreement signed by J Thomas Eller and Kathleen M Eller (the "Borrower") and dated the same date as this Security Instrument (the "Note"). Under the Note, the Lender agrees, subject to certain terms, conditions and limitations, to make advances to the Borrower in a principal amount outstanding not to exceed Three hundred eight thousand and 00/100 Dollars (U.S. \$308,000.00). Borrower has promised to pay this debt with interest in regular periodic payments and to pay the debt in full not later than May 15, 2053. The interest rate stated in the Note is seven and 94 hundredths percent (7.94%). If this Security Instrument is an adjustable rate mortgage loan, this initial rate is subject to change in accordance with the Note.

- (B) All future advances from Lender to Mortgagor under the Specific Debts executed by Mortgagor in favor of Lender after this Security Instrument. If more than one person signs this Security Instrument, each agrees that this Security Instrument will secure all future advances that are given to Mortgagor either individually or with others who may not sign this Security Instrument. All future advances are secured by this Security Instrument even though all or part may not yet be advanced. All future advances are secured as if made on the date of this Security Instrument. Nothing in this Security Instrument shall constitute a commitment to make additional or future advances in any amount. Any such commitment must be agreed to in a separate writing.

- (C) All additional sums advanced and expenses incurred by Lender for insuring, preserving or otherwise protecting the Property and its value and any other sums advanced and expenses incurred by Lender under the terms of this Security Instrument.

3. Mortgage Covenants. Mortgagor agrees that the covenants in this section are material obligations under the Secured Debt and this Security Instrument. If Mortgagor breaches any covenant in this section, Lender may refuse to make additional extensions of credit and reduce the credit limit. By not exercising either remedy on Mortgagor's breach, Lender does not waive Lender's right to later consider the event a breach if it happens again.



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Payments. Mortgagor agrees that all payments under the Secured Debt will be paid when due and in accordance with the terms of the Secured Debt and this Security Instrument.

Prior Security Interests. With regard to any other mortgage, deed of trust, security agreement or other lien document that created a prior security interest or encumbrance on the Property, Mortgagor agrees to make all payments when due and to perform or comply with all covenants. Mortgagor also agrees not to allow any modification or extension of, nor to request any future advances under any note or agreement secured by the lien document without Lender's prior written approval.

Claims Against Title. Mortgagor will pay all taxes, assessments, liens, encumbrances, lease payments, ground rents, utilities, and other charges relating to the Property when due. In addition, Mortgagor shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Lender may require Mortgagor to provide to Lender copies of all notices that such amounts are due and the receipts evidencing Mortgagor's payment. Mortgagor will defend title to the Property against any claims that would impair the lien of this Security Instrument. Mortgagor agrees to assign to Lender, as requested by Lender, any rights, claims or defenses Mortgagor may have against parties who supply labor or materials to maintain or improve the Property. Mortgagor may be the nominal party in a proceeding that questions Mortgagor's title or Lender's interest in the Security Instrument, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Mortgagor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

Property Condition, Alterations and Inspection. Mortgagor will keep the Property in good condition and make all repairs that are reasonably necessary. Mortgagor shall not commit or allow any waste, impairment, or deterioration of the Property. Mortgagor agrees that the nature of the occupancy and use will not substantially change without Lender's prior written consent. Mortgagor will not permit any change in any license, restrictive covenant or easement without Lender's prior written consent. Mortgagor will notify Lender of all demands, proceedings, claims and actions against Mortgagor, and of any loss or damage to the Property.

Lender or Lender's agents may, at Lender's option, enter the Property at any reasonable time for the purpose of inspecting the Property. Any inspection of the Property shall be entirely for Lender's benefit and Mortgagor will in no way rely on Lender's inspection.

Removal of Improvements. Mortgagor shall not demolish or remove any improvements from the Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Mortgagor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

Compliance with Governmental Requirements. Mortgagor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Mortgagor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including



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appropriate appeals, so long as Mortgagor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Mortgagor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

Duty to Protect. Mortgagor agrees neither to abandon nor leave unattended the Property. 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.

Authority to Perform. If Mortgagor fails to perform any duty or any of the covenants contained in this Security Instrument, Lender may, without notice, perform or cause them to be performed. Mortgagor appoints Lender as attorney in fact to sign Mortgagor's name or pay any amount necessary for performance. Lender's right to perform for Mortgagor shall not create an obligation to perform, and Lender's failure to perform will not preclude Lender from exercising any of Lender's other rights under the law or this Security Instrument.

Assignment of Leases and Rents. Mortgagor assigns, grants, bargains, conveys, mortgages and warrants to Lender as additional security all the right, title and interest in the following (all included in "Property"): existing or future leases, subleases, licenses, guaranties and any other written or verbal agreements for the use and occupancy of the Property, including any extensions, renewals, modifications or replacements (all referred to as "Leases"); and rents, issues and profits (all referred to as "Rents"). In the event any item listed as Leases or Rents is determined to be personal property, this assignment will also be regarded as a security agreement. Mortgagor will promptly provide Lender with copies of the Leases and will certify these Leases are true and correct copies. The existing Leases will be provided on execution of the assignment, and all future Leases and any other information with respect to these Leases will be provided immediately after they are executed. Mortgagor may collect, receive, enjoy and use the Rents so long as Mortgagor is not in default.

Upon default, Mortgagor will receive any Rents in trust for Lender and will not commingle the Rents with any other funds. Mortgagor agrees that this Security Instrument is immediately effective between Mortgagor and Lender and effective as to third parties on the recording of this Security Instrument. As long as this Security Instrument is in effect, Mortgagor warrants and represents that no default exists under the Leases, and the parties subject to the Leases have not violated any applicable law on leases, licenses and landlords and tenants.

Leaseholds; Condominiums; Planned Unit Developments. Mortgagor agrees to comply with the provisions of any lease if this Security Instrument is on a leasehold. If the Property includes a unit in a condominium or a planned unit development, Mortgagor will perform all of Mortgagor's duties under the covenants, by-laws, or regulations of the condominium or planned unit development.

Condemnation. Mortgagor will give Lender prompt notice of any pending or threatened action, by private or public entities to purchase or take any or all of the Property through condemnation, eminent domain, or any other means. Mortgagor authorizes Lender to intervene in Mortgagor's



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name in any of the above described actions or claims. Mortgagor assigns to Lender the proceeds of any award or claim for damages connected with a condemnation or other taking of all or any part of the Property. Such proceeds shall be considered payments and will be applied as provided in this Security Instrument. This assignment of proceeds is subject to the terms of any prior mortgage, deed of trust, security agreement or other lien document.

Insurance. Mortgagor shall keep Property insured against loss by fire, flood, theft and other hazards and risks reasonably associated with the Property due to its type and location. This insurance shall be maintained in the amounts and for the periods that Lender requires. What Lender requires pursuant to the preceding two sentences can change during the term of the Secured Debt. The insurance carrier providing the insurance shall be chosen by Mortgagor subject to Lender's approval, which shall not be unreasonably withheld. If Mortgagor fails to maintain the coverage described above, Lender may, at Lender's option, obtain coverage to protect Lender's rights in the Property according to the terms of this Security Instrument.

All insurance policies and renewals shall be acceptable to Lender and shall include a standard "mortgage clause" and, where applicable, "loss payee clause". Mortgagor shall immediately notify Lender of cancellation or termination of the insurance. Lender shall have the right to hold the policies and renewals. If Lender requires, Mortgagor shall immediately give to Lender all receipts of paid premiums and renewal notices. Upon loss, Mortgagor shall give immediate notice to the insurance carrier and Lender. Lender may make proof of loss if not made immediately by Mortgagor.

Unless otherwise agreed in writing, all insurance proceeds shall be applied to the restoration or repair of the Property or to the Secured Debt, whether or not then due, at Lender's option. Any application of proceeds to principal shall not extend or postpone the due date of the scheduled payment nor change the amount of any payment. Any excess will be paid to the Mortgagor. If the Property is acquired by Lender, Mortgagor's right to any insurance policies and proceeds resulting from damage to the Property before the acquisition shall pass to Lender to the extent of the Secured Debt immediately before the acquisition.

Further Assurances, Financial Reports and Additional Documents. Mortgagor will provide to Lender upon request, any financial statement or information Lender may deem reasonably necessary. At any time, and from time to time, upon request of Lender, Mortgagor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, re-filed, or re-recorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such Security Instruments, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may be, in the sole opinion of Lender, necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Mortgagor's obligations under the Note, this Security Instrument, and any related documents, and (2) the liens and security interests created by this Security Instrument as first and prior liens on the Property, whether now owned or hereafter acquired by Mortgagor. Unless prohibited by law or Lender agrees to the contrary in writing,



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Mortgagor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

4. Due on Sale. Lender may, at its option, declare the entire balance of the Secured Debt to be immediately due and payable upon the creation of, or contract for the creation of, a transfer or sale of all or any part of the Property. This right is subject to the restrictions imposed by federal law, as applicable. A "transfer or sale" means the conveyance of Property or any right, title or interest in the Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Property, or by any other method of conveyance of an interest in the Property.

5. Warranties and Representations. Mortgagor warrants that: (a) Mortgagor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Security Instrument, (b) Mortgagor has the full right, power, and authority to execute and deliver this Security Instrument to Lender, and (c) the Property and Mortgagor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

6. Default. Mortgagor will be in default if any of the following occur:

Fraud. Any Borrower engages in fraud or material misrepresentation in connection with the Secured Debt that is an open end home equity plan.

Payments. Any Borrower on any Secured Debt that is an open end home equity plan fails to make a payment when due.

Property. Any action or inaction by Borrower or Mortgagor occurs that adversely affects the Property or Lender's rights in the Property. This includes, but is not limited to, the following: (a) Mortgagor fails to maintain required insurance on the Property; (b) Mortgagor transfers the Property; (c) Mortgagor commits waste or otherwise destructively uses or fails to maintain the Property such that the action or inaction adversely affects Lender's security; (d) Mortgagor fails to pay taxes on the Property or otherwise fails to act and thereby causes a lien to be filed against the Property that is senior to the lien of this Security Instrument; (e) a sole Mortgagor dies; (f) if more than one Mortgagor, any Mortgagor dies and Lender's security is adversely affected; (g) the Property is taken through eminent domain; (h) a judgment is filed against Mortgagor and subjects Mortgagor and the Property to action that adversely affects Lender's interest; or (i) a prior lienholder forecloses on the Property and as a result, Lender's interest is adversely affected.

Executive Officers. Any Borrower who is an executive officer of Lender or an affiliate and such Borrower becomes indebted to Lender or another lender in an aggregate amount greater than the amount permitted under federal laws and regulations.

7. Remedies on Default. In some instances, federal and state law will require Lender to provide Mortgagor with notice of the right to cure, or other notices and may establish time schedules for



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foreclosure actions. Subject to these limitations, upon the occurrence of an event of default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies:

- (a) **Accelerate Secured Debt.** Lender shall have the right, at its option, without notice to Mortgagor (unless required by law), to declare all or any part of the Secured Debt immediately due and payable, including any prepayment penalty that Mortgagor would be required to pay.
- (b) **UCC Remedies.** With respect to all or any part of the personal property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.
- (c) **Collect Rents.** Lender shall have the right, without notice to Mortgagor, to take possession of the Property and collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Secured Debt. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Mortgagor irrevocably designates Lender 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 or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.
- (d) **Mortgagee in Possession.** Lender shall have the right to be placed as mortgagee in possession or to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Secured Debt. The mortgagee in possession or receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Secured Debt by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.
- (e) **Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Mortgagor's interest in all or any part of the Property.
- (f) **Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Secured Debt due to Lender after application of all amounts received from the exercise of the rights provided in this section.
- (g) **Sale of Property.** To the extent permitted by applicable law, Mortgagor hereby waives any and all right to have the Property marshaled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property. Lender will give Mortgagor reasonable notice of the time and place of any public sale of the personal property or of the time after which any private sale or other intended disposition of the personal property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the personal property may be made in conjunction with any sale of the Property. This Security Instrument shall continue as a lien on any part of the Property not sold on foreclosure.
- (h) **Notice of Sale.** Lender will give Mortgagor reasonable notice of the time and place of any public sale of the personal property or of the time after which any private sale or other intended disposition of the personal property is to be made. Reasonable notice shall mean notice given at least ten (10)



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days before the time of the sale or disposition. Any sale of the personal property may be made in conjunction with any sale of the Property.

The acceptance by Lender of any sum in payment or partial payment on the Secured Debt after the balance is due or is accelerated or after foreclosure proceedings are filed shall not constitute a waiver of Lender's right to require complete cure of any existing default. All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Mortgagor's obligations under this Security Instrument, after Mortgagor's failure to do so, that decision by Lender will not affect Lender's right to declare Mortgagor in default and to exercise Lender's remedies.

Mortgagor understands Lender will not give up any of Lender's rights under this Security Instrument unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights that does not mean Mortgagor will not have to comply with the other provisions of this Security Instrument. Mortgagor also understands that if Lender does consent to a request that does not mean that Mortgagor will not have to get Lender's consent again if the situation happens again. Mortgagor further understands that just because Lender consents to one or more of Mortgagor's requests that does not mean Lender will be required to consent to any of Mortgagor's future requests. Mortgagor waives presentment, demand for payment, protest, and notice of dishonor.

8. Expenses; Advances on Covenants; Attorneys' Fees; Collection Costs. If Mortgagor breaches any covenant in this Security Instrument, Mortgagor agrees to pay all expenses Lender incurs in performing such covenants or protecting its security interest in the Property. Such expenses include, but are not limited to, fees incurred for inspecting, preserving, or otherwise protecting the Property and Lender's security interest. These expenses are payable on demand and will bear interest from the date of payment until paid in full at the highest rate of interest in effect as provided in the terms of the Secured Debt. Mortgagor agrees to pay all costs and expenses incurred by Lender in collecting, enforcing or protecting Lender's rights and remedies under this Security Instrument. This amount may include, but is not limited to, attorneys' fees, court costs, and other legal expenses. To the extent permitted by the United States Bankruptcy Code, Mortgagor agrees to pay the reasonable attorneys' fees Lender incurs to collect the Secured Debt as awarded by any court exercising jurisdiction under the Bankruptcy Code. This Security Instrument shall remain in effect until released.

If Lender institutes any suit or action to enforce any of the terms of this Security Instrument, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that are, in Lender's opinion, necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the Secured Debt payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation except as otherwise provided under applicable law, Lender's attorneys' fees and Lender's legal expenses, whether or not there is a lawsuit, including attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment



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collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Mortgagor also will pay any court costs, in addition to all other sums provided by law.

9. Duration and Termination. This Security Instrument shall remain in effect until released. Mortgagor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time, for execution and delivery of a suitable satisfaction of this Security Instrument and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property.

10. Environmental Laws and Hazardous Substances. As used in this section, (1) "Environmental Law" means, without limitation, the *Comprehensive Environmental Response, Compensation and Liability Act* (CERCLA, 42 U.S.C. 9601 et seq.), and all other federal, state and local laws, regulations, ordinances, court orders, attorney general opinions or interpretive letters concerning the public health, safety, welfare, environment or a hazardous substance; and (2) "Hazardous Substance" means any toxic, radioactive or hazardous material, waste, pollutant or contaminant which has characteristics which render the substance dangerous or potentially dangerous to the public health, safety, welfare or environment. The term includes, without limitation, any substances defined as "hazardous material," "toxic substances," "hazardous waste" or "hazardous substance" under any Environmental Law.

Mortgagor represents, warrants and agrees that:

- (A) Except as previously disclosed and acknowledged in writing to Lender, during Mortgagor's ownership of the Property no Hazardous Substance has been or will be located, stored or released on or in the Property. This restriction does not apply to small quantities of Hazardous Substances that are generally recognized to be appropriate for the normal use and maintenance of the Property that are used in compliance with Environmental Law.
- (B) Except as previously disclosed and acknowledged in writing to Lender, Mortgagor and every tenant have been, are, and shall remain in full compliance with any applicable Environmental Law.
- (C) Mortgagor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Law, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims by any person relating to such matters.
- (D) Mortgagor shall immediately notify Lender if a release or threatened release of a Hazardous Substance occurs on, under or about the Property or there is a violation of any Environmental Law concerning the Property. In such an event, Mortgagor shall take all necessary remedial action in accordance with any Environmental Law.
- (E) Mortgagor shall immediately notify Lender in writing as soon as Mortgagor has reason to believe there is any pending or threatened investigation, claim, or proceeding relating to the release or threatened release of any Hazardous Substance or the violation of any Environmental Law.



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Mortgagor authorizes Lender and its agents to enter upon the Property to make inspections and tests, at Mortgagor's expense, that Lender deems appropriate to determine compliance of the Property with this section. Any such inspections or tests shall be for Lender's purposes only and shall not create any responsibility or liability on Lender's part to Mortgagor or anyone else. Mortgagor (1) releases and waives any future claims against Lender for indemnity or contribution in the event Mortgagor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain resulting from a breach of this section or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Mortgagor's ownership or interest in the Property, whether or not the same was or should have been known to Mortgagor. The provisions of this section, including the obligation to indemnify, survive the payment of the Indebtedness and the satisfaction and reconveyance of the lien of this instrument and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

11. Imposition Of Taxes, Fees And Charges By Governmental Authorities. The following provisions relating to governmental taxes, fees and charges are a part of this Security Instrument:

(a) **Current Taxes, Fees and Charges.** Upon request by Lender, Mortgagor shall execute such documents in addition to this Security Instrument and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Property. Mortgagor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Security Instrument, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Security Instrument.

(b) **Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Security Instrument or upon all or any part of the Secured Debt secured by this Security Instrument; (2) a specific tax on Mortgagor which Mortgagor is authorized or required to deduct from payments on the Secured Debt secured by this type of Security Instrument; (3) a tax on this type of Security Instrument chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Secured Debt or on payments of principal and interest made by Mortgagor.

(c) **Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Security Instrument, this event shall have the same effect as default, and Lender may exercise any or all of its available remedies on default as provided above unless Mortgagor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Compliance with Governmental Requirements section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

12. Escrow for Taxes and Insurance. If otherwise provided in a separate agreement, Mortgagor may be required to pay to Lender funds for taxes and insurance in escrow.

13. Reinstatement of Security Interest. If payment is made by Mortgagor, whether voluntarily or otherwise, or by guarantor or by any third party, on the Secured Debt and thereafter Lender is forced to remit the amount of that payment (a) to Mortgagor's trustee in bankruptcy or to any similar person under any federal or state bankruptcy law or law for the relief of debtors; (b) by reason of any judgment, decree or order of any court or administrative body having jurisdiction over Lender or any of Lender's property; or (c) by reason of any settlement or compromise of any claim made by Lender with any claimant (including without limitation Mortgagor), the Secured Debt shall be considered



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unpaid for the purpose of enforcement of this Security Instrument and this Security Instrument shall continue to be effective or shall be reinstated, as the case may be, notwithstanding any cancellation of this Security Instrument or of any note or other instrument or agreement evidencing the Secured Debt and the Property will continue to secure the amount repaid or recovered to the same extent as if that amount never had been originally received by Lender, and Mortgagor shall be bound by any judgment, decree, order, settlement or compromise relating to the Secured Debt or to this Security Instrument.

14. Financing Statements. The following provisions relating to this Security Instrument as a security agreement are a part of this Security Instrument:

(a) **Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

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

(c) **Addresses.** The mailing addresses of Mortgagor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Security Instrument may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Security Instrument.

15. Joint and Several Liability; Co-Signers; Successors and Assigns Bound. All duties under this Security Instrument are joint and several. If Mortgagor signs this Security Instrument but does not sign an evidence of debt, Mortgagor does so only to mortgage Mortgagor's interest in the Property to secure payment of the Secured Debt and Mortgagor does not agree to be personally liable on the Secured Debt. If this Security Instrument secures a guaranty between Lender and Mortgagor, Mortgagor agrees to waive any rights that may prevent Lender from bringing any action or claim against Mortgagor or any party indebted under the obligation. These rights may include, but are not limited to, any anti-deficiency or one-action laws. Subject to any limitations stated in this Security Instrument on transfer of Mortgagor's interest, this Security Instrument shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Mortgagor, Lender, without notice to Mortgagor, may deal with Mortgagor's successors with reference to this Security Instrument and the Secured Debt by way of forbearance or extension without releasing Mortgagor from the obligations of this Security Instrument or liability under the Secured Debt.

16. Merger. There shall be no merger of the interest or estate created by this Security Instrument with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.



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17. Severability; Interpretation. This Security Instrument is complete and fully integrated. This Security Instrument may not be amended or modified by oral agreement. Any section in this Security Instrument, attachments, or any agreement related to the Secured Debt that conflicts with applicable law will not be effective, unless that law expressly or impliedly permits the variations by written agreement. If any section of this Security Instrument cannot be enforced according to its terms, that section will be severed and will not affect the enforceability of the remainder of this Security Instrument. Whenever used, the singular shall include the plural and the plural the singular. The captions and headings of the sections of this Security Instrument are for convenience only and are not to be used to interpret or define the terms of this Security Instrument.

18. Time is of the essence. Time is of the essence in this Security Instrument.

19. Notice. Unless otherwise required by law, any notice shall be given by delivering it or by mailing it by first class mail to the appropriate party's address in this Security Instrument, or to any other address designated in writing. Notice to one mortgagor will be deemed to be notice to all mortgagors. Any person may change his or her address for notices under this Security Instrument by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Mortgagor agrees to keep Lender informed at all times of Mortgagor's current address.

20. Waivers. Except to the extent prohibited by law, Mortgagor waives all appraisal and homestead exemption rights relating to the Property.

21. Survival of Promises. All promises, agreements, and statements Mortgagor has made in this Security Instrument shall survive the execution and delivery of this Security Instrument and shall be continuing.

22. Maximum Obligation Limit. The total principal amount secured by this Security Instrument at any one time shall not exceed \$308,000.00. This limitation of amount does not include interest, attorney's fees, and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Lender's security and to perform any of the covenants contained in this Security Instrument.

23. Line of Credit. The Secured Debt includes a revolving line of credit. Although the Secured Debt may be reduced to a zero balance, this Security Instrument will remain in effect until released.

24. Applicable Law. This Security Instrument will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the state where the Property is located without regard to its conflicts of law provisions.

25. Riders. The covenants and agreements of each of the riders checked below are incorporated into and supplement and amend the terms of this Security Instrument.

[Check all applicable boxes]

Assignment of Leases and Rents Other: _____

26. **Additional Terms.** _____



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Signatures

By signing below, Mortgagor agrees to the terms and covenants contained in this Security Instrument and in any attachments. Mortgagor also acknowledges receipt of a copy of this Security Instrument on the date stated in this Security Instrument.

Mortgagor

J Thomas Eller 5/10/2023
J Thomas Eller Date

Kathleen M Eller 5/10/2023
Kathleen M Eller Date

Acknowledgment

State of ~~Illinois~~ ^{Arizona}

County of ~~Cook~~ ^{Maricopa}

This instrument was acknowledged before me this 10th day of May,
2023 by
J Thomas Eller

Brenda K Bowlin

Notary Public

Brenda K Bowlin

Notary Public Name



This notarial act was completed:

- In Person
- In Person Electronic
- Remote Online Notarization

This notarial act was performed using two-way audio/video technology.



UNOFFICIAL COPY

Acknowledgment

State of ~~Illinois~~ ^{AZ} Arizona

County of ~~Cook~~ ^{AZ} Maricopa

This instrument was acknowledged before me this 10th day of May, 2023 by

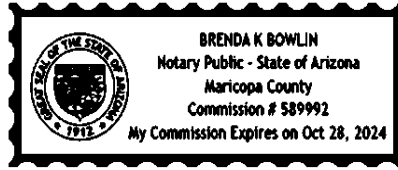
Kathleen M Eller

Brenda K Bowlin

Notary Public

Brenda K Bowlin

Notary Public Name



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