

Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2327734019

Doc# 2327734019 Fee \$88.00

RHSP FEE:\$18.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 10/04/2023 09:55 AM PG: 1 OF 56

The property identified as: PIN: 19-03-201-059-0000

Address:

Street: 4110 & 4150 South Pulaski Road

Street line 2:

City: Chicago

State: IL

ZIP Code: 60632

Lender: United of Omaha Life Insurance Company

Borrower: Rich-Lawndale, LLC and 15501 Gardena, LLC

Loan / Mortgage Amount: \$11,800,000.00

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

Certificate number: A63BE4CF-20DB-45BB-8900-28CAD2594B32

Execution date: 9/20/2023

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Pulaski Promenade (IL.589)

Prepared By And When
Recorded Return or Mail To:

Nyemaster Goode, P.C.
700 Walnut St., Suite 1600
Des Moines, Iowa 50309
Attention: Neal A. Coleman

This space for Recorder's use only

Common Address:
4110 & 4150 South Pulaski Road, Chicago, Illinois 60632

Tax Identification Numbers:
19-03-201-059-0000
19-03-201-061-0000

MORTGAGE, SECURITY AGREEMENT, AND FINANCING STATEMENT

THIS MORTGAGE, SECURITY AGREEMENT, AND FINANCING STATEMENT ("Security Instrument"), made as of September 29, 2023 (the "Effective Date"), by RICH-LAWNDALE, LLC, a California limited liability company ("Rich-Lawndale"), and 15501 GARDENA, LLC, a California limited liability company ("Gardena") (Rich-Lawndale and Gardena are each a "TIC Member" and jointly, severally and collectively referred to herein as "Mortgagor"), each with the mailing address of 1000 N. Western Avenue, Suite 200, San Pedro, California 90732, to and for the benefit of UNITED OF OMAHA LIFE INSURANCE COMPANY, a Nebraska corporation ("Mortgagee"), with an office at Attention: Commercial Mortgage Division, 3300 Mutual of Omaha Plaza, Omaha, Nebraska 68175-1008.

RECITALS:

- A. Mortgagor has borrowed from Mortgagee and Mortgagee has loaned to Mortgagor the sum of ELEVEN MILLION EIGHT HUNDRED THOUSAND AND NO/DOLLARS (\$11,800,000.00) (the "Loan").
- B. The said indebtedness is evidenced by a Promissory Note dated as of the date hereof in the principal sum of ELEVEN MILLION EIGHT HUNDRED THOUSAND AND NO/DOLLARS (\$11,800,000.00) (herein, together with all notes issued and accepted in substitution or exchange therefor, and as any of the foregoing may from time to

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time be modified, extended, renewed, consolidated, restated or replaced, called the "Note"), executed by Mortgagor and payable to Mortgagee in Omaha, Nebraska, as set forth in the Note or at such other place as Mortgagee may designate in writing with interest as therein provided, both principal and interest to be payable periodically in accordance with the terms of the Note and finally maturing on or before the first (1st) day of October 2033 (the "Maturity Date").

NOW, THEREFORE, Mortgagor, for the purpose of securing the payment of all amounts now or hereafter owing under the Note, this Security Instrument and the other Loan Documents (as defined below), except the Limited Guaranty dated as of this same date by Joseph W. Rich, individually and on behalf of his marital community, and Joseph W. Rich, as Trustee of the Joseph W. Rich Family Trust Dated December 16, 1999 (individually referred to herein as "Guarantor" and, if more than one, together as "Guarantors"), and the faithful performance of all covenants, conditions, stipulations and agreements therein and herein contained, in consideration of these premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby grants, bargains, conveys, transfers, assigns, sets over, mortgages, grants a security interest in, and warrants to Mortgagee, its successors and assigns forever the following property and rights (collectively referred to as the "Premises"):

- A. All of the following described real property (hereinafter called the "Land"), located in Cook County, Illinois to wit:

The real property described in Exhibit "A" attached hereto;

- B. All and singular, the buildings and improvements, situated, constructed, or placed on the Land, and all right, title and interest of Mortgagor in and to (1) all streets, boulevards, avenues or other public thoroughfares in front of and adjoining the Land, (2) all easements, licenses, rights of way, rights of ingress or egress, and all covenants, conditions and restrictions benefiting the Land, (3) all strips, gores or pieces of land abutting, bounding, adjacent or contiguous to the Land (4) any land lying in or under the bed of any creek, stream, bayou or river running through, abutting or adjacent to the Land, (5) any riparian, appropriative or other water rights of Mortgagor appurtenant to the Land and relating to surface or subsurface waters, (6) all wastewater (sewer) treatment capacity and all water capacity assigned to the Land, (7) any oil, gas or other minerals or mineral rights relating to the Land or to the surface or subsurface thereof owned by Mortgagor, and (8) any reversionary rights attributable to the Land;

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- C. Any and all leases, subleases, licenses, concessions or grants of other possessory interests now or hereafter in force, oral or written, covering or affecting the Land or any buildings or improvements belonging or in any way appertaining thereto, or any part thereof;
- D. All the rents, issues, uses, profits, insurance claims and proceeds and condemnation awards now or hereafter belonging or in any way pertaining to (1) the Land; (2) each and every building and improvement and all of the properties included within the provisions of the foregoing paragraph B; and (3) each and every lease, sublease and agreement described in the foregoing paragraph C and each and every right, title and interest thereunder, from the date of this Security Instrument until the terms hereof are complied with and fulfilled;
- E. All instruments (including promissory notes), financial assets, documents, accounts, chattel paper (whether tangible or electronic), deposit accounts, letter-of-credit rights, supporting obligations, any other contract rights or rights to the payment of money, and all general intangibles (including, without limitation, payment intangibles, and all recorded data of any kind or nature, regardless of the medium of recording, including, without limitation, all software, writings, plans, specifications and schematics) now or hereafter belonging or in any way pertaining to (1) the Land; (2) each and every building and improvement and all of the properties on the Land; and (3) each and every lease, sublease and agreement described in the foregoing paragraph C and each and every right, title and interest thereunder;
- F. All machinery, apparatus, equipment, fixtures and articles of personal property of every kind and nature now or hereafter located on the Land or upon or within the buildings and improvements belonging or in any way appertaining to the Land and used or usable in connection with any present or future operation of the Land or any building or improvement now or hereafter located thereon and the fixtures and the equipment which may be located on the Land and now owned or hereafter acquired by Mortgagor (hereinafter called the "Equipment"), including, but without limiting the generality of the foregoing, any and all furniture, furnishings, partitions, carpeting, drapes, dynamos, screens, awnings, storm windows, floor coverings, stoves, refrigerators, dishwashers, disposal units, motors, engines, boilers, furnaces, pipes, plumbing, elevators, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, water tanks, maintenance equipment,

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and all heating, lighting, ventilating, refrigerating, incinerating, air-conditioning and air-cooling equipment, gas and electric machinery and all of the right, title and interest of Mortgagor in and to any Equipment which may be subject to any title retention or security agreement superior in lien to the lien of this Security Instrument and all additions, accessions, parts, fittings, accessories, replacements, substitutions, betterments, repairs and proceeds of all of the foregoing, all of which shall be construed as fixtures and will conclusively be construed, intended and presumed to be a part of the Land. It is understood and agreed that all Equipment, whether or not permanently affixed to the Land and the buildings and improvements thereon, shall for the purpose of this Security Instrument be deemed conclusively to be conveyed hereby and, as to all such Equipment, whether personal property or fixtures, or both, a security interest is hereby granted by Mortgagor and hereby attached thereto, all as provided by the Uniform Commercial Code as adopted, amended and in force in Illinois; and

- G. All rights, title and interest in, to and arising under that certain Pulaski Promenade Redevelopment Agreement by and between the City of Chicago and Pulaski Promenade LLC dated September 10, 2014, recorded September 10, 2014 as Document No. 1425322088 in the records of the Recorder of Deeds of Cook County, Illinois, and any amendments thereto, which such agreement shall have been assigned by Pulaski Promenade LLC to Mortgagor prior to or as of the date hereof.

Together with all and singular other tenements, hereditaments and appurtenances belonging to the aforesaid properties, or any part thereof, with the reversions, remainders and benefits and all other revenues, rents, earnings, issues and income and profits arising or to arise out of or to be received or had of and from the properties hereby mortgaged or intended so to be or any part thereof and all the estate, right, title, interest and claims, at law or in equity, which Mortgagor now or may hereafter acquire or be or become entitled to in and to the aforesaid properties and any and every part thereof. The Premises are hereby declared to be subject to the lien of this Security Instrument as security for the payment of the aforementioned indebtedness. Notwithstanding the foregoing, the maximum amount secured hereby shall not exceed the amount of \$23,600,000.00.

SUBJECT TO (i) liens for ad valorem taxes and special assessments or installments thereof not now delinquent; (ii) building and zoning ordinances and building and use restrictions; (iii) easements of record on the date hereof; and (iv) such minor defects, irregularities, encumbrances, easements, and rights of way as normally exist with respect to property similar in character to the

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Premises that do not individually or in the aggregate materially detract from the value of the Premises, affect the marketability thereof or impair the use thereof for the purpose intended (all of the foregoing being herein referred to as "Permitted Encumbrances").

PROVIDED, HOWEVER, that if Mortgagor, its successors or assigns shall pay, or cause to be paid, the principal of the Note and the interest due or to become due thereon, at the times and in the manner mentioned in the Note, and shall keep, perform and observe all the covenants and conditions pursuant to the terms of this Security Instrument and the Assignment of Rents dated as of the date hereof (herein called the "Assignment") to be kept, performed and observed by it, and shall pay to Mortgagee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then this Security Instrument and the rights hereby granted shall cease, terminate and be void and Mortgagee shall execute and deliver to Mortgagor or the office of the Recorder of Deeds of Cook County, Illinois a document in recordable form evidencing the satisfaction of this Security Instrument; otherwise, this Security Instrument shall be and remain in full force and effect. This Security Instrument, the Note, the Assignment, and the other documents and instruments evidencing or securing the loan evidenced by the Note (excluding the certain Environmental Indemnification Agreement dated as of this same date) are referred to herein collectively as the "Loan Documents."

Mortgagor covenants and agrees with Mortgagee as follows:

Section 1. General Covenants.

1.1. Payment of Indebtedness. Mortgagor shall pay when due all amounts at any time owing under the Note secured by this Security Instrument and shall perform and observe each and every term, covenant and condition contained herein and in the Note.

1.2. Title and Instruments of Further Assurance. Mortgagor represents, warrants, covenants and agrees that it is the lawful owner of the Premises, subject to the Permitted Encumbrances, and that it has good right and lawful authority to mortgage, assign and pledge the same as provided herein; that it has not made, done, executed or suffered, and will not make, do, execute or suffer, any act or thing whereby its estate or interest in and title to the Premises or any part thereof shall or may be impaired or changed or encumbered in any manner whatsoever except by Permitted Encumbrances; that it does warrant and will defend the title to the Premises against all claims and demands whatsoever not specifically excepted herein; and that it will do, execute, acknowledge and deliver all and every further act, deed, conveyance, transfer and assurance necessary or proper for the carrying out more effectively of the purpose of this Security Instrument and, without limiting the foregoing, for

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conveying, mortgaging, assigning and confirming unto Mortgagee all of the Premises, or property intended so to be, whether now owned or hereafter acquired, including, without limitation, the preparation, execution and filing of any documents, such as control agreements, financing statements and continuation statements, deemed advisable by Mortgagee for maintaining its lien on any property included in the Premises.

1.3. First Lien. The lien created by this Security Instrument is a first and prior lien on the Premises and Mortgagor will keep the Premises and the rights, privileges and appurtenances thereto free from all lien claims of every kind whether superior, equal, or inferior to the lien of this Security Instrument subject only to Permitted Encumbrances and if any such involuntary lien be filed, Mortgagor, within thirty (30) days after such filing shall cause same to be discharged by payment, bonding or otherwise to the satisfaction of Mortgagee. Mortgagor further agrees to protect and defend the title and possession of the Premises so that this Security Instrument shall be and remain a first lien thereon until said debt be fully paid, or if foreclosure shall be had hereunder so that the purchaser at said sale shall acquire good title in fee simple to the Premises free and clear of all liens and encumbrances except the Permitted Encumbrances.

1.4. Due on Sale or Encumbrance.

(a) In the event Mortgagor or any TIC Member directly or indirectly sells, conveys, transfers, disposes of, or further encumbers all or any part of the Premises or any interest therein, or, except as otherwise provided in this Security Instrument, in the event any ownership interest in Mortgagor or any TIC Member (including, without limitation, voting rights in respect thereof) is directly or indirectly issued, transferred or encumbered, or in the event Mortgagor or any TIC Member or any owner of Mortgagor or any TIC Member agrees so to do, in any case without the written consent of Mortgagee being first obtained (which consent Mortgagee may withhold in its sole and absolute discretion), then, at the sole option of Mortgagee, Mortgagee may accelerate the Loan and declare the principal of and the accrued interest of the Note, and including all sums advanced hereunder with interest, to be due and payable, and thereupon the Note, including both principal and all interest accrued thereon, and including all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind. Without limiting the generality of the foregoing, a merger, consolidation, reorganization, entity conversion or other restructuring or transfer by operation of law, whereunder Mortgagor or, in the case of an ownership interest, the holder of an ownership interest in Mortgagor, is not the surviving entity as such entity exists on the date hereof, shall be deemed to be a transfer of the Premises or of an ownership interest in Mortgagor; and except as otherwise provided in this Security Instrument, any transfer or encumbrance of an ownership interest in a general or limited partnership, corporation or limited

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liability company holding an ownership interest in Mortgagor (or in an entity that holds, directly or indirectly, an ownership interest in Mortgagor) shall be deemed to be a transfer or encumbrance of an ownership interest in Mortgagor. Consent as to any one transfer or encumbrance shall not be deemed to be a waiver of the right to require consent to future or successive transfers or encumbrances. Without limiting the generality of the foregoing, there shall be no subordinate liens on or financing relating to the Premises, and no mezzanine financing secured by a direct or indirect ownership interest in Mortgagor.

(b) Notwithstanding the foregoing subsection 1.4(a), and provided no Event of Default (as hereinafter defined) has occurred and is continuing, one conveyance of the entire Premises to a transferee approved by Mortgagee in its sole and absolute discretion that assumes Mortgagor's obligations under the Loan shall be permitted upon (i) execution by the transferee and delivery to Mortgagee of an assumption agreement satisfactory to Mortgagee; (ii) receipt by Mortgagee of an assumption fee ("Assumption Fee") equal to one percent (1%) of the outstanding amount of the Note at the time of such transfer and assumption (exclusive of a non-refundable Mortgagee review fee of \$5,000.00 payable at the time Mortgagor requests permission for the proposed transfer, which shall accompany any such request); (iii) receipt by Mortgagee of an endorsement to Mortgagee's title policy or a replacement title policy (at Mortgagee's election), in form and substance acceptable to Mortgagee; (iv) receipt by Mortgagee of opinions of counsel, and authorization documents of Mortgagor and the transferee, satisfactory to Mortgagee; and (v) Mortgagor's reimbursement of Mortgagee for all fees and expenses, including reasonable attorneys' fees (which term as used in this Security Instrument shall include any and all reasonable legal fees and expenses incurred in connection with litigation, mediation, arbitration or other alternative dispute resolution), associated with Mortgagee's review and documentation of the transfer. An acceptable transferee must have, without limitation, a financial and credit standing, and commercial real estate management experience equivalent to or greater than that of Mortgagor as of the date hereof or otherwise acceptable to Mortgagee in its sole and absolute discretion. Further, Mortgagee, in its sole and absolute discretion, may require the transferee and parties (including individuals) specifically named by Mortgagee to execute and deliver to Mortgagee an environmental indemnification agreement on Mortgagee's standard form, as the same may be modified by the mutual agreement of Mortgagee and the transferee and such parties, and parties (including individuals) specifically named by Mortgagee to execute and deliver to Mortgagee a guaranty of the recourse obligations under the Note on Mortgagee's standard form, as the same may be modified by the mutual agreement of Mortgagee and such parties. The rights granted to Mortgagor in this subsection 1.4(b) are personal to Mortgagor, shall be extinguished after the exercise thereof, and shall not inure to the benefit of any transferee. Any such transfer and assumption will not release Mortgagor or any Guarantor from any liability to Mortgagee without the written consent of Mortgagee, which consent may be given

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or withheld in Mortgagee's sole and absolute discretion and, if given, will relate only to occurrences first arising after the date of the transfer and assumption and will be conditioned upon (without limitation) (i) the execution and delivery to Mortgagee by the transferee and parties (including individuals) specifically named by Mortgagee of an environmental indemnification agreement on Mortgagee's standard form, as the same may be modified by the mutual agreement of Mortgagee and the transferee and such parties, (ii) execution and delivery to Mortgagee by parties (including individuals) specifically named by Mortgagee of new guaranties of the recourse obligations under the Note on Mortgagee's standard form, as the same may be modified by the mutual agreement of Mortgagee and such parties, (iii) receipt by Mortgagee of an updated Phase I environmental site assessment satisfactory to Mortgagee, and (iv) satisfaction of such other reasonable requirements as Mortgagee may deem appropriate in its sole and absolute discretion.

(c) Additionally, and notwithstanding the foregoing subsection 1.4(a), any ownership interest in a TIC Member may be voluntarily sold, transferred, conveyed or assigned, without the Assumption Fee or any changes in the loan terms, by holders thereof as of the date hereof for estate planning purposes to Immediate Family Members (as defined below) or to an entity controlled by a holder of an ownership interest in such TIC Member as of the date hereof or by one or more of such Immediate Family Members, or to a trust for the benefit of any of such parties, provided (i) no Event of Default shall have occurred and be continuing hereunder or under any of the Loan Documents or any separate documents guarantying Mortgagor's payment and the performance of the Loan, (ii) Mortgagee is notified of such proposed transfer and provided with such documentation evidencing the transfer and identity of the transferee as reasonably requested by Mortgagee, (iii) Guarantors maintain voting and managerial control of Mortgagor and the Premises, and (iv) Mortgagor reimburses Mortgagee for all fees and expenses, including reasonable attorneys' fees, associated with Mortgagee's review and documentation of the transfer, whether or not consummated. "Immediate Family Members" shall mean the respective spouse, children and grandchildren of each holder of an ownership interest in the applicable TIC Member, as comprised on the date hereof.

(d) Additionally, and notwithstanding the foregoing subsection 1.4(a), Mortgagee will permit the following transfers of ownership interests in a TIC Member, without the Assumption Fee or any change in the loan terms, provided that: (i) no Event of Default shall have occurred and be continuing hereunder or under the Loan Documents or any separate documents guarantying Mortgagor's payment and the performance of the Loan, (ii) Mortgagee is promptly notified of such proposed transfer and provided with such documentation evidencing the transfer and identity of the transferee as reasonably requested by Mortgagee, (iii) assumption documents, if deemed necessary by Mortgagee, in a form that is acceptable to Mortgagee are executed by the transferee, and (iv) Mortgagor

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reimburses Mortgagee for all fees and expenses, including reasonable attorneys' fees, associated with Mortgagee's review and documentation of the transfer:

(1) Any ownership interest in a TIC Member may be transferred upon the death of the owner of said interest but only by will or intestacy or by operation of the terms of an inter vivos trust created by such owner as provided for in subsection 1.4(c) above.

(2) So long as: (i) Rich-Lawndale and Gardena retain ownership of the Premises in the same tenant-in-common percentages as in effect as of the date hereof (which is 79% by Rich-Lawndale and 21% by Gardena), and (ii) Joseph W. Rich (or his children or heirs) continue to control the management of each TIC Member, any ownership interest in a TIC Member may be voluntarily sold, transferred, conveyed or assigned to another person owning an ownership interest in a TIC Member as of the date hereof.

(e) In all events, Mortgagee shall be notified in advance of any proposed transfer, and Mortgagor shall pay, or reimburse Mortgagee for, all costs and expenses, including reasonable attorneys' fees, associated with Mortgagee's review and documentation of any proposed transfer of the Premises or interests in Mortgagor, whether or not consummated.

1.5. Covenants, Representations and Warranties of Mortgagor. Mortgagor hereby covenants, represents and warrants to Mortgagee that:

(a) Status. Each TIC Member (i) is a limited liability company duly organized and validly existing under the laws of California, (ii) has the power and authority to own its properties and to carry on its business as now being conducted; (iii) is qualified to do business in every jurisdiction in which the nature of its business or its properties make such qualification necessary, including Illinois; and (iv) is in compliance with all laws, regulations, ordinances, and orders of public authorities applicable to it.

(b) Authority. The execution, delivery and performance by Mortgagor of this Security Instrument and the other Loan Documents, and the borrowing evidenced by the Note: (i) are within the powers of Mortgagor; (ii) have been duly authorized by all requisite action; (iii) have received all necessary governmental approval; and (iv) will not violate any provision of law, any order of any court or other agency of government, or the organizational or chartering documents and agreements of Mortgagor.

(c) Binding. This Security Instrument and the other Loan Documents constitute the legal, valid and binding obligations of Mortgagor and other obligors named therein, if any, enforceable in accordance with their respective terms.

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(d) No Conflict. Neither the execution and delivery of this Security Instrument or the other Loan Documents, the consummation of the transactions contemplated hereby or thereby, nor the fulfillment of or compliance with the terms and conditions of this Security Instrument and the other Loan Documents conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction or any agreement or instrument to which Mortgagor is now a party or by which it is bound.

(e) EO 13224. None of Mortgagor, any TIC Member, any affiliate of Mortgagor or of any TIC Member, or, to Mortgagor's knowledge, any person owning an interest in Mortgagor or any TIC Member or any such affiliate, is or will be an entity or person (i) listed in the Annex to, or is otherwise subject to the provisions of, Executive Order 13224 issued on September 23, 2001 (the "Executive Order"), (ii) included on the most current list of "Specially Designated Nationals and Blocked Persons" published by the United States Treasury Department's Office of Foreign Assets Control ("OFAC") (which list may be published from time to time in various media including, but not limited to, the OFAC website page, <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>), (iii) which or who commits, threatens to commit or supports "terrorism," as that term is defined in the Executive Order, or (iv) affiliated with any entity or person described in clauses (i), (ii) or (iii) above (any and all parties or persons described in clauses (i) through (iv) are herein referred to individually and collectively as a "Prohibited Person"). Mortgagor covenants and agrees that Mortgagor, each TIC Member, and any affiliate of Mortgagor or any TIC Member will not, and each of the aforementioned will direct any person owning an interest in Mortgagor or any such affiliate or any TIC Member or its affiliate to not (i) conduct any business, or engage in any transaction or dealing, with any Prohibited Person, including, but not limited to the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person, or (ii) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in the Executive Order. Mortgagor further covenants and agrees to deliver (from time to time) to Mortgagee any such certification or other evidence as may be requested by Mortgagee in its sole and absolute discretion, confirming that (i) neither Mortgagor nor any TIC Member is a Prohibited Person and (ii) neither Mortgagor nor any TIC Member has engaged in any business, transaction or dealings with a Prohibited Person, including, but not limited to, the making or receiving of any contribution of funds, goods, or services, to or for the benefit of a Prohibited Person.

(f) Entity Formalities. During the time the Note remains outstanding, each TIC Member (i) will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation or merger, and, except as otherwise expressly permitted by the Loan Documents, will not engage in, seek or consent

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to any asset sale, transfer of ownership or equity interests, or, without the written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned, or delayed), amendment of its organizational documents (articles of organization or incorporation, certificate or agreement of limited partnership, operating or limited liability company agreement or bylaws, as the case may be), (ii) will not enter into any plan of division, divide, establish a protected series, create a new registered series, or convert to another form of organization or unincorporated business or entity, (iii) will not fail to correct any known misunderstanding regarding the separate identity of such TIC Member, (iv) will not with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest (A) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally; (B) seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for such entity or all or any portion of such entity's properties; (C) make any assignment for the benefit of such entity's creditors; or (D) take any action that would cause such entity to become insolvent, (v) will maintain its books, records, resolutions and agreements as permanent entity records, (vi) has not commingled and will not commingle its funds or assets with those of any other person or entity, (vii) has held and will hold its assets in its own name, (viii) will conduct its business in its name, (ix) will pay its own liabilities out of its own funds and assets, (x) will observe all entity formalities, (xi) has maintained and, except as otherwise expressly permitted or required by the Loan Documents, will maintain an arm's-length relationship with its affiliates, (xii) will allocate fairly and reasonably shared expenses, including, without limitation, shared office space, and use separate stationery, invoices and checks, (xiii) will hold itself out and identify itself as a separate and distinct entity under its own name and not as a division or part of any other person or entity, (xiv) will not identify its owners (members, partners, shareholders) or any affiliates of any of them as a division or part of it, (xv) will pay the salaries of its own employees from its own funds, (xvi) will endeavor in good faith to maintain adequate capital in light of its contemplated business operations (provided this covenant shall not be construed to require any capital contribution), and (xvii) will continue (and not dissolve) for so long as a solvent managing member, partner or shareholder exists.

(g) Special Purpose Entity. During the time the Note remains outstanding, each TIC Member (i) will not engage in any business unrelated to the Premises, (ii) will not have any assets other than those related to the Premises, (iii) will maintain its financial statements, accounting records, and other entity documents separate from any other person or entity, (iv) will have no indebtedness other than as evidenced by the Loan Documents and commercially reasonable unsecured trade payables in the ordinary course of business relating to the ownership and operation of the Premises that are paid

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within sixty (60) days of the date incurred, (v) except as expressly permitted or required by the Loan Documents, will not assume or guarantee or become obligated for the debts of any other person or entity or hold out its credit as being available to satisfy the obligations of any other person or entity, except as evidenced by the Loan Documents, (vi) will not acquire obligations or securities of its owners (members, partners, shareholders), (vii) will not pledge its assets for the benefit of any other person or entity, (viii) will not make loans to any person or entity, and (ix) except as otherwise expressly permitted or required by the Loan Documents, will not enter into, or be a party to, any transaction with its owners (members, partners, shareholders) or its affiliates except in the ordinary course of its business and on terms which are intrinsically fair and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party.

(h) Further Representations. As of the date hereof, all of the following are true:

(i) Other than as previously disclosed to Mortgagee in writing, neither TIC Member is now, nor has it ever been, party to any lawsuit, arbitration, summons, or legal proceeding that is still pending or that resulted in a judgment against it that has not been fully satisfied, and there are no liens of any nature against such TIC Member except for tax liens not yet due.

(ii) To each TIC Member's knowledge, such TIC Member is in compliance with all laws, regulations, and orders applicable to it and, except as otherwise disclosed to Mortgagee in writing, has received all permits necessary for it to operate.

(iii) Neither TIC Member is not involved in any dispute with any taxing authority.

(iv) Each TIC Member has paid all taxes that it owes.

(v) Each TIC Member has provided Mortgagee with complete financial statements that reflect a fair and accurate view of the entity's financial condition.

(vi) Neither TIC Member has any material contingent or actual obligations not related to the Premises.

(vii) If either TIC Member has amended or restated its organizational documents, such TIC Member has amended or restated its organizational documents in accordance with, and as

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was permitted by, the relevant provisions of the applicable organizational documents prior to its amendment or restatement.

(i) Historical Representations. Since the date of each TIC Member's formation, all of the following have been true:

(i) Neither TIC Member has entered into any contract or agreement with any of its affiliates, constituents, or owners, or any guarantors of any of its obligations (each an "Affiliate") or any person or entity in control of any Affiliate, under the same common control as any Affiliate, or under the control of any Affiliate (each a "Related Affiliate Party") except upon terms and conditions that are commercially reasonable and substantially similar to those available in an arm's-length transaction with an unrelated party.

(ii) Each TIC Member has paid all of its debts and liabilities from its assets.

(iii) Each TIC Member has done or caused to be done all things necessary to observe all organizational formalities applicable to it and to preserve its existence.

(iv) Each TIC Member has maintained all of its books, records, financial statements and bank accounts separate from those of any other person or entity.

(v) Neither TIC Member has had its assets listed as assets on the financial statement of any other person or entity; provided, however, such TIC Member's assets may have been included in a consolidated financial statement of its Affiliate if each of the following conditions is met:

(A) Appropriate notation was made on such consolidated financial statements to indicate the separateness of such TIC Member from such Affiliate and to indicate that such TIC Member's assets and credit were not available to satisfy the debts and other obligations of such Affiliate or any other person or entity.

(B) Such assets were also listed on such TIC Member's own separate balance sheet.

(vi) Each TIC Member has filed its own tax returns (except to the extent that it has been a tax-disregarded entity not required to file tax returns under applicable law) and, if it is a corporation,

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has not filed a consolidated federal income tax return with any other person or entity.

(vii) Each TIC Member has been, and at all times has held itself out to the public as, a legal entity separate and distinct from any other person or entity (including any Affiliate or other Related Affiliate Party).

(viii) Each TIC Member has corrected any known misunderstanding regarding its status as a separate entity.

(ix) Each TIC Member has conducted all of its business and held all of its assets in its own name.

(x) Each TIC Member has not identified itself or any of its Affiliates as a division or part of the other.

(xi) Each TIC Member has maintained and utilized separate stationery, invoices and checks bearing its own name.

(xii) Neither TIC Member has commingled its assets with those of any other person or entity and has held all of its assets in its own name.

(xiii) Neither TIC Member has guaranteed or become obligated for the debts of any other person or entity.

(xiv) Neither TIC Member has held itself out as being responsible for the debts or obligations of any other person or entity.

(xv) Each TIC Member has allocated fairly and reasonably any overhead expenses that have been shared with an Affiliate, including paying for office space and services performed by any employee of an Affiliate or Related Affiliate Party.

(xvi) Neither TIC Member has pledged its assets to secure the obligations of any other person or entity.

(xvii) Each TIC Member has maintained adequate capital in light of its contemplated business operations.

(xviii) Each TIC Member has maintained a sufficient number of employees in light of its contemplated business operations and has paid the salaries of its own employees from its own funds.

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(xix) Neither TIC Member has owned any subsidiary or any equity interest in any other entity.

(xx) Neither TIC Member has incurred any indebtedness that is still outstanding other than Indebtedness that is permitted under the Loan Documents.

(xxi) Neither TIC Member has had any of its obligations guaranteed by an Affiliate or other Related Affiliate Party, except for guarantees that have been either released or discharged (or that will be discharged as a result of the closing of the Loan) or guarantees that are expressly contemplated by the Loan Documents.

(xxii) Neither TIC Member has any Affiliate or Related Affiliate Party holding leasehold interests with respect to the Premises.

Section 2. Maintenance, Obligations Under Leases, Taxes and Liens, Insurance and Financial Reports.

2.1. Maintenance. Mortgagor will cause the Premises and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will abstain from and not permit the commission of waste in or about the Premises, and will comply with (or cause to be complied with) all laws and regulations of any governmental authority with reference to the Premises and the manner of using or operating the same, and with all restrictive covenants, if any, affecting the title to the Premises, or any part thereof. Mortgagor also will from time to time make (or cause to be made) all necessary and proper repairs, renewals, replacements, additions and betterments thereto, so that the value and efficient use thereof shall be fully preserved and maintained and so as to comply with all laws and regulations as aforesaid. Except for tenant improvements made pursuant to leases with respect to which Mortgagee has given its express consent, or which consent has been deemed to have been given as provided in the last sentence of subsection 2.2 below, Mortgagor will not make any material modifications to the Premises without the written consent of Mortgagee, which consent shall not be unreasonably withheld, conditioned, or delayed.

If Mortgagee has reasonable cause to believe that the Premises is not in compliance with applicable laws and regulations (including environmental, health and safety laws and regulations), at the written request of Mortgagee, from time to time, Mortgagor, at its sole cost and expense will furnish Mortgagee with engineering studies and soil tests with respect to the Premises, the form, substance and results of which shall be satisfactory and certified to Mortgagee. If any such engineering studies or soil tests indicate any violation or potential violation of environmental, health, safety or similar laws or regulations, then

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Mortgagor, at its sole cost and expense, will promptly take whatever corrective action is necessary to assure the Premises is in full compliance with applicable law.

2.2. Lease Obligations. Mortgagor has, concurrently herewith, executed and delivered to Mortgagee the Assignment, wherein and whereby, among other things, Mortgagor has assigned to Mortgagee all of the rents, issues and profits and any and all leases and the rights of management of the Premises, all as therein more specifically set forth, which Assignment is hereby incorporated herein by reference as fully and with the same effect as if set forth herein at length. Mortgagor agrees that it will duly perform and observe all of the terms and provisions on the landlord's part to be performed and observed under any and all leases of the Premises and that it will refrain from any action or inaction which would result in the termination by the tenants thereunder of any such leases or in the diminution of the value thereof or of the rents, issues, profits and revenues thereunder. Nothing herein contained shall be deemed to obligate Mortgagee to perform or discharge any obligation, duty or liability of landlord under any lease of the Premises, and Mortgagor shall and does hereby agree to indemnify and hold Mortgagee harmless from any and all liability, loss or damage that Mortgagee may or might incur under any lease of the Premises or by reason of the Assignment; and any and all such liability, loss or damage incurred by Mortgagee, together with the costs and expenses, including reasonable attorneys' fees, incurred by Mortgagee in the defense of any claims or demands therefor (whether successful or not), shall be additional indebtedness hereby secured, and Mortgagor shall reimburse Mortgagee therefor on demand, together with interest at the Default Rate (as defined in the Note) per annum, until paid.

Mortgagor shall not lease or permit a sublease of any portion of the Premises without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned, or delayed), nor will Mortgagor permit or enter into any sublease, assignment, modification, amendment or termination of any prior approved lease or sublease that is not automatically subordinate to this Security Instrument (and any lease that is the subject of a subordination, non-disturbance and attornment agreement shall not be deemed automatically subordinate) without the prior written consent of Mortgagee; provided, however, Mortgagee's consent shall not be required with respect to any lease entered into after the date hereof on a standard form approved by Mortgagee (provided Mortgagor may make immaterial revisions thereto without Mortgagee's approval) that (i) demises less than twenty percent (20%) of the net rentable square feet of the Premises, (ii) is provided to Mortgagee fully executed (iii) has a term of seven (7) years or less, (iv) is a bona fide arm's-length lease with market rates and terms, and (v) does not require a subordination, non-disturbance and attornment agreement. Any lease requiring Mortgagee's consent shall be deemed to have received such consent ten (10) business days after Mortgagee's receipt of the request for such consent and all information

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necessary to process such request (including, without limitation, the proposed lease), if Mortgagee fails to respond to such request within such period of time, provided that the first page of the request contains a conspicuous (bold capital letters) legend as follows: "The consent requested herein will be deemed to have been given if this request is not responded to within ten (10) business days."

2.3. Taxes, Other Governmental Charges, Liens and Utility Charges. Mortgagor shall, before any penalty attaches thereto, pay and discharge or cause to be paid and discharged all taxes, assessments, utility charges and other governmental charges imposed upon or against the Premises or upon or against the Note and the indebtedness secured hereby, and will not suffer to exist any mechanic's, statutory or other lien on the Premises or any part thereof unless consented to by Mortgagee in writing. If Mortgagee is required by legislative enactment or judicial decision to pay any such tax, assessment or charge, then at the option of Mortgagee, the Note and any accrued interest thereon together with any additions to the mortgage debt shall be and become due and payable at the election of Mortgagee within one hundred eighty (180) days after written notice of such election to Mortgagor (without any otherwise applicable prepayment premium); provided, however, said election shall be unavailing and this Security Instrument and the Note shall be and remain in effect as though said law had not been enacted or said decision had not been rendered if, notwithstanding such law or decision Mortgagor lawfully pays such tax, assessments or charge to or for Mortgagee. Copies of paid tax and assessment receipts shall be furnished to Mortgagee not less than ten (10) days prior to the delinquent dates.

Nothing in this subsection shall require the payment or discharge of any obligation imposed upon Mortgagor by this subsection so long as Mortgagor, upon first notifying Mortgagee of its intent to do so, shall in good faith and at its own expense contest the same or the validity thereof by appropriate legal proceeding which permit the items contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom, unless Mortgagee shall notify Mortgagor that, in its opinion, by nonpayment of any such items, the lien of the Security Instrument as to any part of the Premises will be materially endangered or the Premises, or any part thereof, will be subject to loss or forfeiture, in which event such taxes, assessments or charges shall be paid promptly.

2.4. Insurance.

(a) Mortgagor shall procure and maintain continuously in effect with respect to the Premises policies of insurance against such risks and in such amounts as are customary for a prudent owner of property comparable to that comprising the Premises. Irrespective of, and without limiting the generality of

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the foregoing provision, Mortgagor shall specifically maintain the following insurance coverages:

(i) Property insurance providing Insurance Services Office (ISO) "special form" or comparable or superior "all risk" coverage with waiver of subrogation in favor of Mortgagee, including, but not limited to, coverage for the following risks of loss:

- (A) Fire,
- (B) Extended Coverage Perils,
- (C) Vandalism and Malicious Mischief,
- (D) Terrorism, and
- (E) Wind/Hail, including Named Storm;

on a Replacement Cost basis in an amount equal to the full insurable value thereof ("full insurable value" shall include the actual replacement cost of all buildings and improvements and the contents therein, without deduction for depreciation, architectural, engineering, legal and administrative fees), either subject to no coinsurance clause or containing an agreed value clause, with a deductible not exceeding Twenty-Five Thousand Dollars (\$25,000.00) per occurrence, except in the case of a Named Storm or other catastrophic causes, in which case the deductible shall be an amount acceptable to Mortgagee.

(ii) Business Income for at least one (1) year based on an approved Business Income Worksheet, or Loss of Rents insurance in an amount equal to not less than the gross revenue from the Premises for twelve (12) months immediately preceding the date of loss. A policy written on the basis of Actual Loss Sustained (ALS) for a minimum of one (1) year is also acceptable.

(iii) If the Premises or any part of the Premises is located in the multiple Special Flood Hazard Areas of A or V, then Flood Insurance in an amount equal to the amounts available under the National Flood Insurance Program, or such other amount required by Mortgagee shall be maintained at all times. Mortgagee reserves the right to require flood insurance for Premises in Special Flood Hazard Area D (undetermined risk areas) and property not mapped by FEMA.

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(iv) In the event Earthquake insurance is required, then Mortgagor shall obtain Earthquake insurance equal to the combined total of the Replacement Cost and the Business Income/Loss of Rents cited in paragraphs (i) and (ii) above.

(v) If the Premises utilizes elevators, steam boilers or a centralized heating, ventilating, air conditioning or cooling (HVAC) system, then so called "Boiler and Machinery" insurance coverage shall be maintained on a Replacement Cost basis for the amounts indicated in paragraph (i) above, or such other amount Mortgagee may agree to.

(vi) If at any time during the term of the Loan, the Premises is deemed "legal non-conforming" then the property damage policy or policies shall include Ordinance or Law Coverage equivalent to the coverage shown in the ISO Ordinance or Law form CP 04 05 04 02. Coverage A shall be for the full amount of the Replacement Cost and Coverage B and C shall be equal to ten percent (10%) each of Coverage A.

(vii) Commercial General Liability insurance, including the Terrorism extension, against liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the Premises or any part thereof, and any activities thereon, in the maximum amounts required by any of the leases of the Premises, but in no event less than a per occurrence limit of \$1,000,000.00 and a minimum annual aggregate limit of \$2,000,000.00.

(viii) Umbrella and/or Excess Liability policy shall be maintained in an amount satisfactory to Mortgagee, but in no event less than \$5,000,000.00. Terrorism coverage must be included as part of the Umbrella/Excess Liability policy.

(ix) Insurance against such other casualties and contingencies as Mortgagee may from time to time require, if such insurance against such other casualties and contingencies is available at a commercially reasonable premium, all in such manner and for such amounts as may be reasonably satisfactory to Mortgagee.

(b) In lieu of separate policies, Mortgagor may maintain blanket policies having the coverage required herein, in which event it shall deposit with Mortgagee a certificate or certificates of the respective insurance as to the amount of coverage in force on the Premises. At the discretion of Mortgagee,

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Mortgagor shall deposit with Mortgagee such documentation as may be reasonably required to satisfy Mortgagee that the Premises is adequately covered against any localized catastrophe losses to which the Premises may be susceptible (e.g., full statement of values by location or catastrophe analysis reports).

(c) All insurance provided for in subsection 2.4(a) above shall be effective under a valid and enforceable policy or policies issued by an insurer of recognized responsibility approved by Mortgagee (an insurer with an A.M. Best Company's Financial Strength Rating of at least A and a Financial Size Category of at least VII shall be deemed approved).

(d) All policies of insurance required in subsections 2.4(a)(i) – (a)(vii) above shall name Mortgagor as the Named Insured. The property policies described in subsections 2.4(a)(i) – (a)(vi) above shall provide that the proceeds of such insurance shall be payable to Mortgagor and Mortgagee, its participants, successors and/or assigns. In addition, all first party property damage policies shall contain a standard Non-Contributory Mortgagee Clause. The Commercial General Liability policy shall name Mortgagee as an Additional Insured relating to the Premises.

(e) Mortgagor shall deposit with Mortgagee policies evidencing all such insurance, or a certificate or certificates of the respective insurers stating that such insurance is in force and effect. At least thirty (30) days prior to the date the premiums on each such policy shall become due and payable, Mortgagee shall be furnished with proof of such payment reasonably satisfactory to it. Each policy of insurance herein required shall contain a provision that the insurer shall not cancel, refuse to renew or materially modify it without giving written notice to Mortgagee at least thirty (30) days before the cancellation, nonrenewal or modification becomes effective. Before the expiration of any policy of insurance herein required, Mortgagor shall furnish Mortgagee with evidence satisfactory to Mortgagee that the policy has been renewed or replaced by another policy conforming to the provisions of this subsection 2.4 or that there is no necessity therefor under the terms hereof. Each policy of insurance shall include a provision that the insurer will provide written notice to Mortgagee at least ten (10) days before issuing a notice of cancellation for non-payment.

(f) In the event Mortgagor shall not provide satisfactory evidence of insurance to Mortgagee, then Mortgagee shall have the sole right but not the obligation to obtain coverage satisfactory to Mortgagee and the cost of such insurance shall become an obligation of Mortgagor. It is understood and agreed by Mortgagor that the so called "Force Placed" coverage is only for the benefit of Mortgagee and that Mortgagor shall have no right to any of the proceeds from such insurance(s). Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has

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obtained insurance as required by this Security Instrument. If Mortgagee purchases insurance for the Premises, Mortgagor will be responsible for the costs of that insurance, including interest and any other charges Mortgagee may impose in connection with the placement of the Force Placed coverage, until the effective date of the cancellation or expiration of the insurance. The costs of the Force Placed Insurance may be added to the total outstanding balance of the indebtedness secured hereby. The cost of the Force Placed coverage may be more than the cost of insurance Mortgagor may be able to obtain on its own.

2.5. Advances. If Mortgagor shall fail to comply with any of the terms, covenants and conditions herein with respect to the procuring of insurance, the payment of taxes, assessments and other charges, the keeping of the Premises in repair, or any other term, covenant or condition herein contained, Mortgagee may make advances to perform the same and, where necessary, enter the Premises for the purpose of performing any such term, covenant or condition, and without limitation of the foregoing, Mortgagee may procure and place insurance coverage in accordance with the requirements of subsection 2.4 above. Mortgagor agrees to repay all sums so advanced upon demand, with interest at a rate equal to the Default Rate per annum, until paid. All sums so advanced, with interest, shall be secured hereby in priority to the indebtedness evidenced by the Note, but no such advance shall be deemed to relieve Mortgagor from any default hereunder. After making any such advance, payments made pursuant to the Note shall be first applied toward reimbursement for any such advance and interest thereon, prior to the application toward accrued interest and principal payments due pursuant to the Note.

2.6. Financial Information.

(a) Mortgagor shall furnish Mortgagee annually, within one hundred and twenty (120) days following the end of each fiscal year of Mortgagor, annual financial statements prepared on a cash basis, including balance sheets, income statements and cash flow statements, covering the operation of the Premises, Mortgagor, and if requested in writing by Mortgagee, any Guarantor, for the previous fiscal year and a current rent roll of the Premises, all certified to Mortgagee to be complete, correct and accurate by Mortgagor or Guarantor(s), as applicable, or an officer, manager or a general partner of Mortgagor or Guarantor(s), as applicable, or by the individual or the managing partner or chief financial officer of such other party as the report concerns. Notwithstanding the foregoing, throughout the term of the Loan, Mortgagee shall have the right to request and receive within fifteen (15) business days of making such written request, year-to-date and quarterly income and expense statements that shall include an updated rent roll, a current cash flow statement, and up-to-date payables and receivables in respect of the Premises.

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(b) Mortgagor shall provide sales data and financial reports of tenants of the Premises if such reports are required to be delivered to Mortgagor pursuant to the leases with such tenants.

2.7. Use of Premises. Mortgagor shall furnish and keep in force a Certificate of Occupancy, or its equivalent, and comply with (or cause to be complied with) all restrictions affecting the Premises and with all applicable laws, ordinances, acts, rules, regulations and orders of any legislative, executive, administrative or judicial body, commission or officer (whether Federal, State or local), exercising any power of regulation or supervision over Mortgagor, or any part of the Premises, whether the same be directed to the erection, repair, manner of use or structural alteration of buildings or otherwise. Mortgagor shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Premises or any part thereof, nor shall Mortgagor initiate, join in, acquiesce in, or consent to any zoning change or zoning matter affecting the Premises. If under applicable zoning provisions the use of all or any portion of the Premises is or shall become a nonconforming use, Mortgagor will not cause or permit such nonconforming use to be discontinued or abandoned without the express written consent of Mortgagee. Mortgagor shall not permit or suffer to occur any waste on or to the Premises or to any portion thereof and shall not take any steps whatsoever to convert the Premises, or any portion thereof, to a condominium or cooperative form of management. Mortgagor will not install or permit to be installed on the Premises any underground storage tank. Mortgagor shall not conduct, nor permit any tenant of the Premises to conduct, any on-site dry cleaning operations at the Premises.

2.8. Escrows. Mortgagor shall pay to Mortgagee, together with and in addition to the monthly payments of principal and interest provided for in the Note, an amount reasonably estimated by Mortgagee to be sufficient to pay one-twelfth (1/12) of the estimated annual real estate taxes (including other charges against the Premises by governmental or quasi-governmental bodies but excluding special assessments which are to be paid as the same become due and payable) and one-twelfth (1/12) of the annual premiums on insurance required in subsection 2.4 hereof to be held by Mortgagee and used to pay said taxes and insurance premiums when same shall fall due; provided that upon the occurrence of an Event of Default, Mortgagee may apply such funds as Mortgagee shall deem appropriate. If at the time that payments are to be made, the funds set aside for payment of either taxes or insurance premiums are insufficient, Mortgagor shall upon demand pay such additional sums as Mortgagee shall determine to be necessary to cover the required payment. Mortgagee need not segregate such funds. No interest shall be payable to Mortgagor upon any such payments.

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2.9. Environmental Matters.

(a) Definitions. As used herein, the following terms will have the meaning set forth below:

(i) Environmental Law means any federal, state or local law, statute, rule, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions on, under or about the Premises, including, without limitation, each of the following (and their respective successor provisions and all their respective state law counterparts): the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. sections 9601 *et seq.*; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. sections 6901 *et seq.*; the Toxic Substances Control Act, as amended, 15 U.S.C. sections 2601 *et seq.*; the Clean Air Act, as amended, 42 U.S.C. sections 7401 *et seq.*; the Clean Water Act, as amended, 33 U.S.C. sections 1251 *et seq.*; the Federal Hazardous Materials Transportation Act, 49 U.S.C. sections 5101 *et seq.*; and the rules, regulations and ordinances of the U.S. Environmental Protection Agency and of all other agencies, boards, commissions and other governmental bodies and officers having jurisdiction over the Premises or the use or operation of the Premises.

(ii) Enforcement or Remedial Action means any action taken by any person or entity in an attempt or asserted attempt to enforce, to achieve compliance with, or to collect or impose assessments, penalties, fines, or other sanctions provided by, any Environmental Law.

(iii) Environmental Liability means any claim, demand, obligation, cause of action, accusation, allegation, order, violation, damage (including consequential damage), injury, judgment, assessment, penalty, fine, cost of Enforcement or Remedial Action, or any other cost or expense whatsoever, including actual, reasonable attorneys' fees, resulting from or arising out of the violation or alleged violation of any Environmental Law, any Enforcement or Remedial Action, or any alleged exposure of any person or property to any Hazardous Substance.

(iv) Hazardous Substance means: (A) those substances included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "pollutants," "hazardous waste," or "solid waste" in any Environmental Law; (B) those substances listed in the U.S. Department of Transportation Table or

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amendments thereto (49 C.F.R. section 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 C.F.R. Part 302.4 and any amendments thereto); (C) those other substances, materials and wastes that are or become regulated under any applicable federal, state or local law, regulation or ordinance or by any federal, state or local governmental agency, board, commission or other governmental body, or that are or become classified as hazardous or toxic by any such law, regulation or ordinance; and (D) any material, waste or substance that is any of the following: (1) asbestos; (2) a polychlorinated biphenyl; (3) designated or listed as a "hazardous substance" pursuant to sections 307 or 311 of the Clean Water Act (33 U.S.C. sections 1251 *et seq.*); (4) explosive; (5) radioactive; (6) a petroleum product; (7) infectious waste; or (8) a mold or mycotoxin.

(v) Permitted Hazardous Substance means any commercially sold products otherwise within the definition of the term "Hazardous Substance," but (a) that are used or disposed of by Mortgagor or used or sold by tenants of the Premises in the ordinary course of their respective businesses, (b) the presence of which is not prohibited by applicable Environmental Law, and (c) the use and disposal of which are in all respects in accordance with applicable Environmental Law.

(vi) Release means any release, spill, discharge, leak, disposal or emission, whether past, present or future.

(b) Representations, Warranties and Covenants Mortgagor represents, warrants, covenants and agrees as follows:

(i) Neither Mortgagor nor, to the knowledge of Mortgagor, the Premises or any occupant thereof are in violation of, or subject to any existing, pending or threatened investigation or inquiry by any governmental authority pertaining to, any Environmental Law. Mortgagor shall not cause or permit the Premises to be in violation of, or do anything which would subject the Premises to any remedial obligations under, any Environmental Law, and shall promptly notify Mortgagee in writing of any existing, pending or threatened investigation or inquiry by any governmental authority in connection with any Environmental Law. In addition, Mortgagor shall provide Mortgagee with copies of any and all material written communications with any governmental authority in connection with any Environmental Law, concurrently with Mortgagor's giving or receiving of same.

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(ii) To the knowledge of Mortgagor, there are no underground storage tanks, radon, asbestos materials, polychlorinated biphenyls or urea formaldehyde insulation present at or installed in the Premises. Mortgagor covenants and agrees that if any such materials are found to be present at the Premises, Mortgagor shall remove or remediate the same promptly upon discovery at its sole cost and expense and in accordance with Environmental Law.

(iii) To the knowledge of Mortgagor, there has been no Release of any Hazardous Substance at, upon, under or within the Premises. The use which Mortgagor or, to the knowledge of Mortgagor, any other occupant of the Premises makes or intends to make of the Premises will not result in Release of any Hazardous Substance on or to the Premises. During the term of this Security Instrument, Mortgagor shall take all steps necessary to determine whether there has been a Release of any Hazardous Substance on or to the Premises and if Mortgagor finds a Release has occurred, Mortgagor shall remove or remediate the same promptly upon discovery at its sole cost and expense.

(iv) To the knowledge of Mortgagor, none of the real property owned and/or occupied by Mortgagor and located in Illinois, including, without limitation, the Premises, has ever been used by the present or previous owners and/or operators or will be used in the future to refine, produce, store, handle, transfer, process, transport, generate, manufacture, treat, recycle or dispose of Hazardous Substances (other than a Permitted Hazardous Substance).

(v) Mortgagor has not received any notice of violation, request for information, summons, citation, directive or other communication, written or oral, from any Illinois department of environmental protection (howsoever designated) or the United States Environmental Protection Agency concerning any intentional or unintentional act or omission on Mortgagor's or any occupant's part resulting in the Release of Hazardous Substances into the waters or onto the lands within the jurisdiction of the State of Illinois or into the waters outside the jurisdiction of the State of Illinois resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air or other resources owned, managed, held in trust or otherwise controlled by or within the jurisdiction of the State of Illinois.

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(vi) To the knowledge of Mortgagor, the real property owned and/or occupied by Mortgagor and located in Illinois, including, without limitation, the Premises: (A) is being and has been operated in compliance with all Environmental Laws, and all permits required thereunder have been obtained and complied with in all respects; and (B) does not have any Hazardous Substances present (other than a Permitted Hazardous Substance).

(vii) Mortgagor will and will cause its tenants to operate the Premises in compliance with all Environmental Laws and will not place or permit to be placed any Hazardous Substances (other than a Permitted Hazardous Substance) on the Premises.

(viii) No lien has been attached to or, to the knowledge of Mortgagor, threatened to be imposed upon any revenue from the Premises, and, to the knowledge of Mortgagor, there is no basis for the imposition of any such lien based on any governmental action under Environmental Laws. Neither Mortgagor nor, to the knowledge of Mortgagor, any other party has been, is or will be involved in operations at the Premises that could lead to the imposition of Environmental Liability on Mortgagor, or on any subsequent or former owner of the Premises, or the creation of an environmental lien on the Premises. In the event that any such lien is filed, Mortgagor shall, within thirty (30) days from the date that Mortgagor is given notice of such lien (or within such shorter period of time as is appropriate in the event that the State of Illinois or the United States has commenced steps to have the Premises sold), either: (A) pay the claim and remove the lien from the Premises; or (B) furnish a cash deposit, bond or other security satisfactory in form and substance to Mortgagee in an amount sufficient to discharge the claim out of which the lien arises.

(ix) In the event that Mortgagor shall cause or permit to exist a Release of Hazardous Substances into the waters or onto the lands within the jurisdiction of the State of Illinois, or into the waters outside the jurisdiction of the State of Illinois resulting in damage to the lands, waters, fish, shellfish, wildlife, biota, air or other resources owned, managed, held in trust or otherwise controlled by or within the jurisdiction of the State of Illinois, without having obtained a permit issued by the appropriate governmental authorities, Mortgagor shall promptly remediate such Release in accordance with the applicable provisions of all Environmental Laws.

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(c) Right to Inspect and Cure. Mortgagee shall have the right to conduct or have conducted by its agents or contractors such environmental inspections, audits and tests as Mortgagee shall deem necessary or advisable from time to time at the sole cost and expense of Mortgagor; provided, however, that Mortgagor shall not be obligated to bear the expense of any such environmental inspections, audits or tests so long as (i) no Event of Default exists, and (ii) Mortgagee has no cause to believe in its sole judgment that there has been a Release or threatened Release of Hazardous Substances at the Premises or that Mortgagor or the Premises is in violation of any Environmental Law. The cost of such inspections, audits and tests, if chargeable to Mortgagor as aforesaid, shall be added to the indebtedness secured hereby and shall be secured by this Security Instrument. Mortgagor shall, and shall cause each tenant of the Premises to, cooperate with such inspection efforts; such cooperation shall include, without limitation, supplying all information requested concerning the operations conducted and Hazardous Substances located at the Premises. In the event that Mortgagor fails to comply with any Environmental Law, Mortgagee may, in addition to any of its other remedies under this Security Instrument, cause the Premises to be in compliance with such Environmental Law and the cost of such compliance shall be added to the sums secured by this Security Instrument.

(d) Indemnification. Mortgagor shall protect, indemnify, defend, and hold harmless Mortgagee and its directors, officers, employees, agents, successors and assigns from and against any and all loss, injury, damage, cost, expense and liability (including, without limitation, reasonable attorneys' fees) directly or indirectly arising out of or attributable to (i) the installation, use, generation, manufacture, production, storage, Release, threatened Release, discharge, disposal or presence of a Hazardous Substance on, under or about the Premises, or (ii) the presence of any underground storage tank on, under or about the Premises, or (iii) any Environmental Liability; including, without limitation: (A) all consequential damages, (B) the costs of any required or necessary repair, remediation or detoxification of the Premises, and (C) the preparation and implementation of any closure, remedial or other required plans. The foregoing agreement to indemnify, defend and hold harmless Mortgagee expressly includes, but is not limited to, any losses, liabilities, damages, injuries, costs, expenses and claims suffered or incurred by Mortgagee upon or subsequent to Mortgagee becoming owner of the Premises through foreclosure, acceptance of a deed in lieu of foreclosure, or otherwise, excepting only such losses, liabilities, damages, injuries, costs, expenses and claims that are caused by or arise out of actions taken by Mortgagee, or by those contracting with Mortgagee, subsequent to Mortgagee taking possession or becoming owner of the Premises. The indemnity evidenced hereby shall survive the satisfaction, release or extinguishment of the lien of this Security Instrument, including, without limitation, any extinguishment of the lien of this Security Instrument by foreclosure or deed in lieu thereof.

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(e) Remediation. If any investigation, site monitoring, containment, remediation, removal, restoration or other remedial work of any kind or nature (the "Remedial Work") is reasonably desirable (in the case of an operation and maintenance program or similar monitoring or preventative programs) or necessary, both as determined by an independent environmental consultant selected by Mortgagee, under any applicable Environmental Law, because of or in connection with the current or future presence, suspected presence, Release or suspected Release of a Hazardous Substance into the air, soil, groundwater, or surface water at, on, about, under or within the Premises or any portion thereof, Mortgagor shall within thirty (30) days after written demand by Mortgagee for the performance (or within such shorter time as may be required under applicable Environmental Law), commence and thereafter diligently prosecute to completion all such Remedial Work to the extent required by applicable Environmental Law. All Remedial Work shall be performed by contractors approved in advance by Mortgagee and under the supervision of a consulting engineer approved in advance by Mortgagee (which approval in each case shall not be unreasonably withheld or delayed). All costs and expenses of such Remedial Work (including, without limitation, reasonable attorneys' fees) incurred in connection with monitoring or review of the Remedial Work shall be paid by Mortgagor. If Mortgagor shall fail or neglect to timely commence or cause to be commenced, or shall fail to diligently prosecute to completion, such Remedial Work, Mortgagee may (but shall not be required to) cause such Remedial Work to be performed; and all costs and expenses thereof, or incurred in connection therewith (including, without limitation, reasonable attorneys' fees), shall be paid by Mortgagor to Mortgagee forthwith after demand and shall be a part of the indebtedness secured hereby.

(f) Survival. All warranties and representations above shall be deemed to be continuing and shall remain true and correct in all material respects until all of the indebtedness secured hereby has been paid in full and any limitations period expires. Mortgagor's covenants above shall survive any exercise of any remedy by Mortgagee hereunder or under any other instrument or document now or hereafter evidencing or securing the said indebtedness, including foreclosure of this Security Instrument (or deed in lieu thereof), even if, as a part of such foreclosure or deed in lieu of foreclosure, the said indebtedness is satisfied in full and/or this Security Instrument shall have been released.

Section 3. Damage, Destruction and Condemnation.

3.1. Application of Insurance Proceeds. All proceeds of property insurance maintained pursuant to subsection 2.4(a) hereof ("Proceeds") shall be paid to Mortgagee and shall be applied first to the payment of all costs and expenses incurred by Mortgagee in obtaining such Proceeds and, second, at the option of Mortgagee, either: (a) to the reduction of the indebtedness hereby

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secured (without any otherwise applicable prepayment premium), or (b) to the restoration or repair of the Premises (provided, however, that if Mortgagee requires the restoration or repair of the Premises, Mortgagee shall make such proceeds available to Mortgagor in accordance with the terms of subsection 3.3 below); without affecting the lien of this Security Instrument or the obligations of Mortgagor hereunder. Mortgagor is authorized to compromise and settle all loss claims on said policies subject to Mortgagee's prior review and written approval (which approval shall not be unreasonably withheld, conditioned, or delayed). Any such application to the reduction of the indebtedness hereby secured shall not reduce or postpone the monthly payments otherwise required pursuant to the Note. No interest shall be payable to Mortgagor on the Proceeds while held by Mortgagee.

3.2. Application of Condemnation Award. Should any of the Premises be taken by condemnation through the exercise of the power of eminent domain, any award or consideration for the property so taken ("Award") shall be paid over to Mortgagee and shall be applied first to the payment of all costs and expenses incurred by Mortgagee in obtaining such Award and, second, at the option of Mortgagee, either: (a) to the reduction of the indebtedness hereby secured (without any otherwise applicable prepayment premium), or (b) to the restoration or repair of the Premises (provided, however, that if Mortgagee requires the restoration or repair of the Premises, Mortgagee shall make such proceeds available to the Mortgagor in accordance with the terms of subsection 3.3 below); without affecting the lien of this Security Instrument or the obligations of Mortgagor hereunder. Mortgagor is authorized to compromise and settle all Awards for the property so taken subject to Mortgagee's prior review and written approval (which approval shall not be unreasonably withheld, conditioned, or delayed). Any such Award applied to the reduction of indebtedness shall not reduce or postpone the monthly payments otherwise required pursuant to the Note. No interest shall be payable to Mortgagor on any Award while held by Mortgagee.

3.3. Mortgagee to Make Proceeds or Awards Available.

(a) Notwithstanding the provisions of subsections 3.1 and 3.2 above, in the event of insured damage to the Premises or in the event of a taking by eminent domain of only a portion of the Premises, and provided that: (i) the portion remaining can with restoration or repair continue to be operated for the purposes utilized immediately prior to such damage or taking, (ii) the appraised value and architectural units of the Premises after such restoration or repair shall not be less than the appraised value or architectural units as of the date hereof, (iii) no Event of Default exists, (iv) the Proceeds or Awards, together with funds deposited by Mortgagor (as required), prior to commencement of restoration or repair are sufficient to assure full completion of such restoration or repair, (v) at least ninety percent (90%) of the total leasable space in the

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Premises has been leased by arm's-length tenants that are not controlled directly or indirectly by Mortgagor or affiliates of Mortgagor at lease rates and terms equal to or exceeding the rates and terms in effect immediately preceding such damage or taking, (vi) the Maturity Date is not within twelve (12) months of the date of the casualty or condemnation, and (vii) the Loan is not in default and has not been in default within the twelve (12) months immediately preceding the date of the casualty or condemnation; Mortgagee agrees to make the Proceeds or Awards available for such restoration and repair (except for Proceeds payable pursuant to subsection 2.4[a][ii] of this Security Instrument, which Proceeds shall be applied for the purpose intended, being to ameliorate revenue lost due to rent abatement or other such reduction and to apply the Proceeds to debt service payments and operating expenses of the Premises), subject to the terms and conditions of this subsection 3.3.

(b) Mortgagee may, at its option, hold such Proceeds or Awards, except for Proceeds payable pursuant to subsection 2.4(a)(ii) as referred to in subsection 3.3(a) above, in escrow until the required restoration and repair has been satisfactorily completed, subject to the provisions of subsection 3.3(c) below; provided, however, for Proceeds or Awards in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) Mortgagee will allow for interim disbursement of Proceeds or Awards pursuant to prudent construction lending procedures (e.g., funding protocols, builder's risk insurance, lien waivers, consulting engineer inspections, approved architect, approved contractors, approved construction budget, permits, and licenses) as reasonably determined by Mortgagee, and all costs and expenses incurred by Mortgagee in administering the same, including, without limitation, any costs of inspection, shall be paid or reimbursed by Mortgagor. No interest shall be payable to Mortgagor with respect to any such escrow.

(c) In the event Proceeds or Awards are to be made available for restoration or repair in accordance with subsection 3.3(a) or subsection 3.3(b) above, such Proceeds or Awards shall be made available, from time to time, upon Mortgagee being furnished with such information, documents, instruments and certificates as Mortgagee may reasonably require and in form reasonably satisfactory to Mortgagee, including, but not limited to, satisfactory evidence of the estimated cost of completion of the restoration or repair of the Premises, architect's certificates, waivers of lien, contractor's sworn statements and other evidence of cost and of payments, insurance against mechanics' liens and/or a performance bond or bonds (written with such surety company or companies as may be satisfactory to Mortgagee), with premium fully prepaid, under the terms of which Mortgagee shall be either the sole or dual obligee, and all plans and specifications for such restoration or repair, which shall be subject to approval by Mortgagee. No payment made prior to the final completion of the restoration or repair shall exceed ninety percent (90%) of the value of the work performed, from time to time, and at all times the undisbursed balance of said Proceeds or

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Awards, plus additional funds deposited by Mortgagor remaining under the control of Mortgagee, shall be at least sufficient to pay for the cost of completion of the restoration or repair free and clear of liens.

Section 4. Default Provisions and Remedies of Mortgagee.

4.1. Events of Default. The occurrence of any of the following events is hereby declared to be and to constitute an "Event of Default" under this Security Instrument:

(a) failure by Mortgagor to pay when due (including any applicable grace period) any amounts required to be paid hereunder (including, without limitation, real estate taxes and escrow payments) at the time specified herein; or

(b) an event as to which Mortgagee elects to accelerate the Loan as provided for in subsection 1.4 above ("Due on Sale or Encumbrance") or failure by Mortgagor to observe and perform the covenants, conditions and agreements set forth in subsection 2.4 above ("Insurance"); or

(c) an "Event of Default" as defined in any other Loan Document, or any event that is declared in any Loan Document to constitute an Event of Default under this Security Instrument; or

(d) failure by Mortgagor or a Guarantor to observe and perform any covenant, condition or agreement on its part to be observed or performed in this Security Instrument or any other Loan Document other than as referred to in clauses (a), (b) and (c) above, for a period of thirty (30) days after written notice, specifying such failure and requesting that it be remedied, is given to Mortgagor or Guarantor, as the case may be, by Mortgagee, which period will be extended up to a maximum of one hundred twenty (120) additional days if the default is not susceptible of cure within the initial thirty (30) days and Mortgagor or Guarantor, as the case may be, commences the cure within the initial thirty (30) day period and proceeds with diligence and continuity of effort to cure the default; or

(e) any representation or warranty made in writing by or on behalf of Mortgagor or a Guarantor in this Security Instrument or the other Loan Documents, any financial statement, certificate, or report furnished in order to induce Mortgagee to make the Loan secured by this Security Instrument, shall prove to have been false or incorrect in any material respect, or materially misleading as of the time such representation or warranty was made; or

(f) Mortgagor, any TIC Member or a Guarantor shall:

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(i) admit in writing its inability to pay its debts generally as they become due, or

(ii) file a petition in bankruptcy to be adjudicated a voluntary bankrupt or file a similar petition under any insolvency act, or

(iii) make an assignment for the benefit of its creditors, or

(iv) consent to the appointment of a receiver of itself or of the whole or any substantial part of its property; or

(g) Mortgagor, any TIC Member or a Guarantor shall file a petition or answer seeking reorganization or arrangement of Mortgagor, such TIC Member or such Guarantor under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof; or

(h) Mortgagor, any TIC Member or a Guarantor shall, on a petition in bankruptcy filed against it, be adjudicated a bankrupt or if a court of competent jurisdiction shall enter an order or decree appointing without the consent of Mortgagor, such TIC Member or such Guarantor a receiver or trustee of Mortgagor, such TIC Member or such Guarantor or of the whole or substantially all of its property, or approving a petition filed against it seeking reorganization or arrangement of Mortgagor, such TIC Member or such Guarantor under the Federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof, and such adjudication, order or decree shall not be vacated or set aside or stayed within ninety (90) days from the date of the entry thereof; or

(i) any Borrower (as defined in the Note) who is a natural person dies or any Borrower, any TIC Member that is an entity dissolves or otherwise ceases to exist; or

(j) a Guarantor shall repudiate such Guarantor's obligations; or

(k) (i) any Guarantor who is a natural person shall die, (ii) any trust that is a Guarantor shall be revoked or terminated, (iii) any Guarantor that is an entity shall dissolve or otherwise cease to exist, or (iv) any Guarantor shall transfer or distribute assets without having retained sufficient assets to satisfy the obligations including, without limitation, contingent obligations of such Guarantor; unless within sixty (60) days after such death or trust-termination (if such termination is caused by the death of the settlor or a beneficiary), and within sixty (60) days prior to such revocation, trust-termination (if caused otherwise than by the death of the settlor or a beneficiary), dissolution, cessation, transfer or distribution, a substitute guarantor or substitute guarantors

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satisfactory to Mortgagee shall become liable to Mortgagee by executing a guaranty agreement and an environmental indemnification agreement satisfactory to Mortgagee; or

(l) Mortgagor shall be in default of, or in violation of, beyond any applicable grace period, any conditions, covenants or restrictions that benefit or burden the Premises; or

(m) any TIC Member shall file a petition seeking partition of the Premises or take any action or inaction that would result in the modification, dissolution, or termination of the TIC Agreement (defined in subsection 7.16 below).

4.2. Acceleration. Upon the occurrence of an Event of Default, Mortgagee may declare the entire unpaid principal balance, accrued interest and any other amounts due under the Note, and including all sums advanced hereunder with interest, to be forthwith due and payable, and thereupon the Note, including both principal and all interest accrued thereon, and including all sums advanced hereunder and interest thereon, shall be and become immediately due and payable without presentment, demand or further notice of any kind.

4.3. Remedies of Mortgagee. Upon the occurrence and continuance of an Event of Default, or in case the principal of the Note shall have become due and payable, whether by lapse of time or by acceleration, then and in every such case Mortgagee may proceed to protect and enforce its right by a suit or suits in equity or at law, either for the specific performance of any covenant or agreement contained herein or in the Assignment, or the Note, or in aid of the execution of any power herein or therein granted, or for the foreclosure of this Security Instrument, or for the enforcement of any other appropriate legal or equitable remedy.

In case of any sale of the Premises pursuant to any judgment or decree of any court or otherwise in connection with the enforcement of any of the terms of this Security Instrument, Mortgagee, its successors or assigns, may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to turn in and use the Note and any claims for interest matured and unpaid thereon, together with additions to the mortgage debt, if any, in order that such sums may be credited as paid on the purchase price.

Each and every power or remedy herein specifically given shall be in addition to every other power or remedy, existing or implied, given now or hereafter existing at law or in equity, and each and every power and remedy herein specifically given or otherwise so existing may be exercised from time to time and as often and in such order as may be deemed expedient by Mortgagee, and the exercise or the beginning of the exercise of one power or remedy shall

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not be deemed a waiver of the right to exercise at the same time or thereafter any other power or remedy. No delay or omission of Mortgagee in the exercise of any right or power accruing hereunder shall impair any such right or power or be construed to be a waiver of any default or acquiescence therein.

4.4. Appointment of Receiver or Fiscal Agent. After the happening of any Event of Default and during its continuance or upon the commencement of any proceedings to foreclose this Security Instrument or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any right of Mortgagee, Mortgagee shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the mortgage indebtedness, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of a receiver or receivers or a fiscal agent or fiscal agents and Mortgagee shall be entitled to select the receiver it wishes the court to appoint.

4.5. Proceeds of Sale. In any suit to foreclose the lien of this Security Instrument, there shall be allowed and included in the decree for sale, to be paid out of the rents or the proceeds of such sale:

(a) all principal and interest remaining unpaid on the Note and secured hereby with interest at the Default Rate per annum from the date due until paid;

(b) all late charges, if any, and all other items advanced or paid by Mortgagee pursuant to this Security Instrument, with interest at the Default Rate per annum or, if less, the highest legal rate permitted under applicable law from the date of advancement until paid; and

(c) all court costs, reasonable attorneys' fees, appraiser's fees, environmental audits, expenditures for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all abstracts of title, title searches and examinations, title insurance policies, Torrens certificates and similar data with respect to title which Mortgagee may deem necessary incurred by Mortgagee, and all such expenses (whether incurred before or after the judgment of foreclosure) shall become additional indebtedness secured hereby and immediately due and payable, with interest at the Default Rate per annum, when paid or incurred by Mortgagee in connection with any proceeding, including probate and bankruptcy proceedings, to which Mortgagee shall be a party, either as plaintiff, claimant or defendant, by reason of this Security Instrument or any indebtedness hereby secured or in connection with preparations for the commencement of any suit for the foreclosure hereof after accrual of such right to foreclose, whether or not actually commenced.

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The proceeds of any foreclosure sale shall be distributed and applied to the items described in (a), (b) and (c) of this subsection, inversely to the order of their listing.

4.6. Waiver of Events of Default; Forbearance. Mortgagee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of acceleration of principal. No forbearance by Mortgagee in the exercise of any right or remedy hereunder shall affect the ability of Mortgagee to thereafter exercise any such right or remedy.

4.7. Waiver of Extension, Marshaling; Other. Mortgagor hereby waives to the full extent lawfully allowed the benefit of any appraisement, homestead, moratorium, stay and extension laws now or hereafter in force. Mortgagor hereby further waives any rights available with respect to marshaling of assets so as to require the separate sales of any portion of the Premises, or as to require Mortgagee to exhaust its remedies against a specific portion of the Premises before proceeding against any other, and does hereby expressly consent to and authorize the sale of the Premises as a single unit or parcel. To the maximum extent permitted by law, Mortgagor irrevocably and unconditionally WAIVES and RELEASES any present or future rights (a) of reinstatement or redemption, (b) that may exempt the Premises from any civil process, (c) to appraisal or valuation of the Premises, (d) to extension of time for payment, (e) that may subject Mortgagee's exercise of its remedies to the administration of any decedent's estate or to any partition or liquidation action, (f) to any homestead and exemption rights provided by the Constitution and laws of the United States and of Illinois, (g) to notice of acceleration or notice of intent to accelerate (other than as expressly stated herein), and (h) that in any way would delay or defeat the right of Mortgagee to cause the sale of the Premises for the purpose of satisfying the obligations secured hereby. Mortgagor agrees that the price paid at a lawful foreclosure sale, whether by Mortgagee or by a third party, and whether paid through cancellation of all or a portion of the Note or in cash, shall conclusively establish the value of the Premises.

4.8. Costs of Collection. Mortgagor shall pay on demand all costs and expenses actually incurred by Mortgagee in enforcing or protecting its rights and remedies hereunder, including, but not limited to, reasonable attorneys' fees, including, without limitation, any post-judgment fees, costs or expenses incurred on any appeal, in collection of any judgment, or in appearing and/or enforcing any claim in any bankruptcy proceeding. In the event of a judgment on the Note, Mortgagor agrees to pay to Mortgagee on demand all costs and expenses, including, without limitation, reasonable attorneys' fees, actually incurred by Mortgagee in satisfying such judgment, including taxes and post-judgment insurance. It is expressly understood that such agreement by Mortgagor to pay the aforesaid post-judgment costs and expenses of Mortgagee is absolute and unconditional and (a) shall survive (and not merge into) the entry

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of a judgment for amounts owing hereunder and (b) shall not be limited regardless of whether the Note or other obligation of Mortgagor or a Guarantor, as applicable, is secured or unsecured, and regardless of whether Mortgagee exercises any available rights or remedies against any collateral pledged as security for the Note and shall not be limited or extinguished by merger of the Note or other Loan Documents into a judgment of foreclosure or other judgment of a court of competent jurisdiction, and shall remain in full force and effect post-judgment and shall continue in full force and effect with regard to any subsequent proceedings in a court of competent jurisdiction, including, but not limited to, bankruptcy court and shall remain in full force and effect after collection of such foreclosure or other judgment until such fees and costs are paid in full. Such fees or costs shall be added to Mortgagee's lien on the Premises.

Section 5. Mortgagee.

5.1. Right of Mortgagee to Pay Taxes and Other Charges. In case any tax, assessment or governmental or other charge upon any part of the Premises or any insurance premium with respect thereto is not paid, to the extent, if any, that the same is legally payable, Mortgagee may pay such tax, assessment, governmental charge or premium, without prejudice, however, to any rights of Mortgagee hereunder arising in consequence of such failure; and any amount at any time so paid under this subsection (whether incurred before or after judgment of foreclosure), with interest thereon from the date of payment at the Default Rate per annum, until paid, shall be repaid to Mortgagee upon demand and shall become additional indebtedness secured by this Security Instrument, and the same shall be given a preference in payment over principal of or interest on the Note, but Mortgagee shall be under no obligation to make any such payment.

5.2. Reimbursement of Mortgagee. If any action or proceeding be commenced (except an action to foreclose this Security Instrument), to which action or proceeding Mortgagee is made a party, or in which it becomes necessary, in Mortgagee's reasonable opinion, to defend or uphold the lien of this Security Instrument, or to protect the Premises or any part thereof, all reasonable sums paid by Mortgagee to establish or defend the rights and lien of this Security Instrument or to protect the Premises or any part thereof (including reasonable attorneys' fees, and costs and allowances) and whether suit be brought or not, shall be paid, upon demand, to Mortgagee by Mortgagor, together with interest at a rate equal to the Default Rate per annum, until paid. Any such sum or sums and the interest thereon shall be secured hereby in priority to the indebtedness evidenced by the Note.

5.3. Release of Premises. Mortgagee shall have the right at any time, and from time to time, at its discretion to release from the lien of this Security

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Instrument all or any part of the Premises without in any way prejudicing its rights with respect to all of the Premises not so released.

Section 6. Security Agreement.

6.1. Security Agreement and Financing Statement Under Uniform Commercial Code. Mortgagor (being a debtor as that term is used in the Uniform Commercial Code of the State of Illinois) as in effect from time to time (herein called the "Code"), as security for payment of the Note, hereby grants a security interest in any part of the Premises owned by Mortgagor other than real estate (all for the purposes of this Section called "Collateral"), including any proceeds generated therefrom (although such coverage shall not be interpreted to mean that Mortgagee consents to the sale of any of the Collateral), to Mortgagee (being the secured party as that term is used in the Code) and hereby authorizes Mortgagee to file financing statements covering the Collateral. This Security Instrument constitutes a security agreement and a financing statement, including a fixture financing statement, under the Code. All of the terms, provisions, conditions and agreements contained in this Security Instrument pertain and apply to the Collateral as fully and to the same extent as to any other property comprising the Premises; and the following provisions of this Section shall not limit the generality or applicability of any other provision of this Security Instrument but shall be in addition thereto.

6.2. Defined Terms. The terms and provisions contained in this Section shall, unless the context otherwise requires, have the meanings and be construed as provided in the Code.

6.3. Mortgagor's Representations and Warranties. Mortgagor represents that:

(a) It has rights in, or the power to transfer, the Collateral, and the Collateral is subject to no liens, charges or encumbrances other than the lien hereof.

(b) As of the date of this Security Instrument, no other party has a security interest in any of the Collateral.

(c) Each TIC Member is an organization, being a limited liability company organized under the laws of the State of California.

6.4. Mortgagor's Obligations. Mortgagor agrees that until its obligations hereunder are paid in full:

(a) No TIC Member shall change its legal name, its type of organization or its state of organization, and shall not merge or consolidate with any other

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person or entity without at least thirty (30) days' prior written notice to Mortgagee.

(b) It shall not pledge, mortgage or create, or suffer to exist, a security interest in the Collateral in favor of any person other than Mortgagee.

(c) It shall keep the Collateral in good order and repair and will not use the same in violation of law or any policy of insurance thereon.

(d) It shall use the Collateral solely for business purposes, being installed upon the Premises for Mortgagor's own use or as the equipment and furnishings furnished by Mortgagor, as landlord, to tenants of the Premises.

(e) It shall keep the Collateral at the Land and shall not remove, sell, assign or transfer it therefrom, nor allow a third party to do so, without the prior written consent of Mortgagee, which may be withheld in Mortgagee's sole and absolute discretion, unless disposed of in the ordinary course of business and replaced with items of comparable utility and/or quality and value free and clear of all liens or title retention devices. The Collateral may be affixed to such real estate but will not be affixed to any other real estate.

(f) It will, on its own initiative, or as Mortgagee may from time to time reasonably request in writing, and at its own cost and expense, take all steps necessary and appropriate to establish and maintain Mortgagee's perfected security interest in the Collateral subject to no adverse liens or encumbrances, including, but not limited to, furnishing to Mortgagee additional information, delivering possession of the Collateral to Mortgagee, authorizing Mortgagee to file financing statements and other documents in a form satisfactory to Mortgagee, placing a legend that is acceptable to Mortgagee on all chattel paper created by Mortgagor indicating that Mortgagee has a security interest in the chattel paper and assisting Mortgagee in obtaining executed copies of any and all documents required of third parties.

6.5. Right of Inspection. At any and all reasonable times, upon not less than forty-eight (48) hours prior written notice (except in the event of an emergency, in which case no such notice shall be required), Mortgagee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right to inspect the Collateral fully to ensure compliance with this Security Instrument.

6.6. Remedies.

(a) Upon the occurrence of an Event of Default hereunder and at any time thereafter, Mortgagee at its option may declare the indebtedness hereby secured immediately due and payable, and thereupon Mortgagee shall have the

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remedies of a secured party under the Code, 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 Mortgagor can give authority therefor, with or without 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 condition stated in the Code); and 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 Mortgagor's obligations, as provided in the Code. Mortgagee, without removal, may render the Collateral unusable and dispose of the Collateral on the Premises. Mortgagee may require Mortgagor to assemble the Collateral and make it available to Mortgagee for its possession at a place to be designated by Mortgagee which is reasonably convenient to both parties. 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, by certified mail or equivalent, postage prepaid, to the address of Mortgagor hereinabove set forth and at least ten (10) days before the time of the sale or disposition. Mortgagee may buy 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 buy at private sale. Any such sale may be held as part of and in conjunction with any foreclosure sale of the real estate comprised within the Premises, the Collateral and real estate to 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 indebtedness hereby secured. Mortgagee will account to Mortgagor for any surplus realized on such disposition.

(b) The remedies of Mortgagee hereunder are cumulative and the exercise of any one or more of the remedies provided for herein or under the Code shall not be construed as a waiver of any of the other remedies of Mortgagee, including having the Collateral deemed part of the realty upon and foreclosure thereof so long as any part of the indebtedness hereby secured remains unsatisfied.

6.7. Fixture Filing. This Security Instrument creates a security interest in goods that are or are to become fixtures related to the Land shall be effective as a fixture filing and is to be filed in the real estate records.

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Section 7. Miscellaneous.

7.1. Additions to Premises. In the event any additional improvements, Equipment, or property not herein specifically identified shall be or in the future become a part of the Premises by location or installation on the Premises or otherwise, then this Security Instrument shall immediately attach to and constitute a lien or security interest against such additional items without further act or deed of Mortgagor.

7.2. Time of Essence. Time is of the essence of this Security Instrument and all of its terms, provisions, agreements and conditions contained herein.

7.3. No Waiver. Mortgagor shall not be deemed, by any act or omission or commission, to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by Mortgagor and then, only to the extent specifically set forth in the writing. A waiver with reference to one event shall not be construed as continuing or as a bar to or waiver of any right or remedy as to a subsequent event. Without limiting the generality of the foregoing, no waiver of, or election by Mortgagor not to pursue, enforcement of any provision hereof shall affect, waive or diminish in any manner Mortgagor's right to pursue the enforcement of any other provision.

7.4. Supplements or Amendments. This Security Instrument may not be supplemented or amended except by written agreement between Mortgagor and Mortgagor.

7.5. Successors and Assigns. All provisions hereof shall inure to and bind the respective successors and assigns of the parties hereto. The word Mortgagor shall include all persons claiming under or through Mortgagor and all persons liable for the payment of the indebtedness secured by this Security Instrument or any part thereof. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

7.6. Notices. All notices, demands, consents or requests which are either required or desired to be given or furnished hereunder (a "Notice") shall be in writing and shall be deemed to have been properly given if either delivered personally or by overnight commercial courier or sent by United States registered or certified mail, postage prepaid, return receipt requested, to the address of the parties hereinabove set out. Such Notice shall be effective upon receipt or refusal if by personal delivery, the first Business Day (a day other than a Saturday, Sunday or holiday on which national banks are authorized to be closed) after the deposit of such Notice with an overnight courier service by the time deadline for next Business Day delivery if by commercial courier, and upon the earliest of receipt or refusal (which shall include a failure to respond to notification of

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delivery by the U.S. Postal Service) or five (5) Business Days following mailing if sent by U.S. Postal Service mail. By Notice complying with the foregoing, each party may from time to time change the address to be subsequently applicable to it for the purpose of the foregoing.

7.7. Severability. If any provision of this Security Instrument shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or render the same invalid, inoperative, or unenforceable to any extent whatsoever.

7.8. Governing Law. This Security Instrument shall be construed and enforced according to and governed by the laws of Illinois (excluding conflicts of laws rules) and applicable federal law.

7.9. Captions. All captions and headings in this Security Instrument are included for convenience of reference only and shall in no respect constitute a part of the terms hereof nor describe, define or in any manner limit the scope of this Security Instrument, any interest granted hereby or any term or provision hereof.

7.10. Counterparts. This Security Instrument may be executed in any number of counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute but one and the same instrument. The pages of any counterpart of this Security Instrument containing any party's signature or the acknowledgment of such party's signature hereto may be detached therefrom without impairing the effect of the signature or acknowledgment, provided such pages are attached to any other counterpart identical thereto except having additional pages containing the signatures or acknowledgments thereof of other parties.

7.11. Further Assurances. Mortgagor will, from time to time, upon fifteen (15) business days' prior written request from Mortgagee, make, execute, acknowledge and deliver to Mortgagee such supplemental mortgages, certificates and other documents, as may be deemed necessary for better assuring and confirming unto Mortgagee any of the Premises, or for more particularly identifying and describing the Premises, or to preserve or protect the priority of the lien of this Security Instrument, and generally do and perform such other acts and things and execute and deliver such other instruments and documents as may reasonably be deemed necessary or advisable by Mortgagee to carry out the intentions of this Security Instrument.

7.12. Discrete Premises. Other than as set forth in Permitted Encumbrances of record as of the date hereof, Mortgagor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Security Instrument to rely on the Premises or any part thereof

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or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Premises or any interest therein to be so used (which consent shall not be unreasonably withheld, conditioned, or delayed). Similarly, no building or other improvement on the Premises shall rely on any premises not subject to the lien of this Security Instrument or any interest therein to fulfill any governmental or municipal requirement. Mortgagor shall not by act or omission impair the integrity of the Premises as a single zoning lot separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this paragraph shall be void.

7.13. Certificates. Mortgagor and Mortgagee each will, from time to time, upon ten (10) business days' prior written request by the other party (but not more frequently than once in any calendar year unless an Event of Default shall have occurred), execute, acknowledge and deliver to the requesting party, a certificate signed by an appropriate officer, stating that this Security Instrument is unmodified and in full force and effect (or, if there have been modifications, that this Security Instrument is in full force and effect as modified and setting forth such modifications) and stating the principal amount secured hereby and the interest accrued to date on such principal amount. Such estoppel certificate from Mortgagee shall also state either (a) to the actual knowledge of the signer of such certificate and based on no independent investigation, no Event of Default or occurrence which, with the passage of time or the giving of notice or both, would be or become an Event of Default exists hereunder or, if any Event of Default or such occurrence shall exist hereunder, specify such Event of Default or such occurrence of which Mortgagee has actual knowledge. The estoppel certificate from Mortgagor shall also state to the actual knowledge of Mortgagor whether any offsets or defenses to the indebtedness exist and if so shall identify them.

7.14. Usury Savings. All agreements between Mortgagor and Mortgagee (including, without limitation, those contained in this Security Instrument and the Note) are expressly limited so that in no event whatsoever shall the amount paid or agreed to be paid to Mortgagee exceed the highest lawful rate of interest permissible under the laws of the State of Illinois. If, from any circumstances whatsoever, fulfillment of any provision hereof or the Note or any other documents securing the indebtedness at the time performance of such provision shall be due, shall involve the payment of interest exceeding the highest rate of interest permitted by law which a court of competent jurisdiction may deem applicable hereto, then, *ipso facto*, the obligation to be fulfilled shall be reduced to the highest lawful rate of interest permissible under the laws of Illinois; and if for any reason whatsoever Mortgagee shall ever receive as interest an amount which would be deemed unlawful, such interest shall be applied to the payment of the last maturing installment or installments of the principal indebtedness

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secured hereby (whether or not then due and payable) and not to the payment of interest.

7.15. Regulation U. Mortgagor covenants and agrees that it shall constitute an Event of Default hereunder if any of the proceeds of the loan for which the Note is given will be used, or were used, as the case may be, for the purpose (whether immediate, incidental or ultimate) of “purchasing” or “carrying” any “margin security” as such terms are defined in Regulation U of the Board of Governors of the Federal Reserve System (12 CFR Part 221) or for the purpose of reducing or retiring any indebtedness which was originally incurred for any such purpose.

7.16. Waiver of Co-Tenancy Rights. Mortgagor, and each party comprising Mortgagor, hereby waive all of their respective co-tenancy rights provided at law or in equity or under the TIC Agreement (as defined below) for tenants in common between, among or against each other, including, without limitation, any right to partition the Premises and any right to obtain a lien on any co-tenancy interest in the Premises, and hereby subordinate and waive any and all rights of subrogation, contribution, indemnification and security interests, and all options to purchase and rights of refusal to purchase any interest of any TIC Member, including, without limitation, any such rights provided for in the TIC Agreement between or among them until such time as the Note and all obligations under the Loan Documents have been satisfied. Mortgagor has provided to Mortgagee a copy of certain Tenancy-In-Common Agreement dated as of September 20, 2023 regarding the Premises, as affected by that certain Memorandum of Tenancy-In-Common Agreement dated as of September 20, 2023 and recorded in the Official Public Records of Cook County, Illinois immediately prior to the recordation of this Security Instrument, as supplemented by a certain Tenancy-In-Common Agreement Supplement dated as of this same date (collectively, the “TIC Agreement”), and Mortgagor represents and warrants the TIC Agreement is in full force and effect as of the date hereof and has not been amended or modified. With respect to such co-tenancy, each TIC Member agrees as follows:

(a) The TIC Agreement shall not terminate prior to the date the Loan has been fully paid and discharged, except in connection with a transaction approved by Mortgagee in writing.

(b) Any default under the TIC Agreement will constitute an Event of Default under this Security Instrument and each and all of the Loan Documents.

(c) The filing of any action by or on behalf of any TIC Member to partition or compel the sale of any or all of the Premises will constitute an Event of Default under this Security Instrument and each and all of the Loan Documents.

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(d) Each TIC Member covenants not to bring an action for partition with respect to its ownership interest in the Premises or to compel any sale thereof, and each TIC Member waives any and all rights to partition the Premises or any portion thereof.

(e) Rich-Lawndale owns an undivided seventy-nine percent (79%) interest in the Premises, and Gardena owns an undivided twenty-one percent (21%) interest in the Premises, as tenants in common.

(f) Each TIC Member covenants that, at all times during the term of the Loan, Joseph W. Rich shall (i) have complete and absolute operating authority and control over the Premises, and (ii) own or control, directly or indirectly, not less than twenty percent (20%) of the ownership interests in the Premises.

(g) Until such time as the Loan has been fully paid and discharged, Mortgagor shall give prompt notice to Mortgagee of any default under the TIC Agreement.

(h) Until such time as the Loan has been fully paid and discharged, Mortgagor shall not materially modify, amend or terminate the TIC Agreement without the prior written consent of Mortgagee, which consent may be withheld in its sole and absolute discretion.

(i) There shall never be more than two (2) tenants in common owning the Premises.

(j) After the date hereof, Mortgagor shall not enter into any written or unwritten agreement between or among them or with any other party with respect to their tenancy in common ownership of the Premises without the prior written consent of Mortgagee, which consent may be withheld in its sole and absolute discretion.

(k) No event has occurred that with the passage of time, the giving of notice, or both would result in a default under the terms of the TIC Agreement.

(l) No TIC Member shall (i) permit payments to any other TIC Member pursuant to the terms of the TIC Agreement without Lender's prior written consent, (ii) exercise or enforce any creditor's right it may have against any other TIC Member, or (iii) foreclose, repossess, sequester or otherwise take or institute any action or proceedings (judicial or otherwise, including, without limitation, the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any rights or remedies under the TIC Agreement, liens, security interests, judgment liens, charges or other encumbrances on assets of any other TIC Member.

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(m) Each TIC Member hereby waives any and all rights of subrogation or contribution from any other TIC Member until the Loan is paid in full and all obligations of Mortgagor under the Loan Documents have been fulfilled.

(n) Except as otherwise expressly permitted by subsection 1.4 above, the direct and indirect ownership interests in each TIC Member shall at all times during the term of the Loan remain the same as they are as of the date hereof.

(o) Each TIC Member hereby appoints Rich-Lawndale, with the address of 1000 N. Western Avenue, Suite 200, San Pedro, California 90732, as their agent for purposes of making, giving, receiving and responding to notices and other communications with Mortgagee and its participants, successors and assigns in connection with the Loan and the Premises, including, but not limited to, service of process, and each TIC Member acknowledges that any communication made by, given to or served upon Rich-Lawndale shall be deemed to have been made by, received by and served upon each and every TIC Member.

7.17. ERISA. Mortgagor hereby represents, warrants and agrees that as of the date hereof, none of the investors in or owners of Mortgagor is an employee benefit plan as defined in Section 3(3) of the Employee Retirement Income Security Act of 1974 as amended ("ERISA"), a plan as defined in Section 4975(e)(1) of the Internal Revenue Code of 1986 as amended, nor an entity the assets of which are deemed to include plan assets pursuant to Department of Labor regulation Section 2510.3-101, as modified by ERISA Section 3(42) (the "Plan Asset Regulation"). Mortgagor further represents, warrants and agrees that at all times during the term of the Note, Mortgagor shall satisfy an exception to the Plan Asset Regulation, such that the assets of Mortgagor shall not be deemed to include plan assets. If at any time during the entire term of the Note any of the investors in or owners of Mortgagor shall include a plan or entity described in the first sentence of this subsection, Mortgagor shall as soon as reasonably possible following an investment by such a plan or entity, provide Mortgagee with an opinion of counsel reasonably satisfactory to Mortgagee indicating that the assets of Mortgagor are not deemed to include plan assets pursuant to the Plan Asset Regulation. In lieu of such an opinion, Mortgagee may in its sole and absolute discretion accept such other assurances from Mortgagor as are necessary to satisfy Mortgagee in its sole discretion that the assets of Mortgagor are not deemed to include plan assets pursuant to the Plan Asset Regulation. Mortgagor understands that the representations and warranties herein are a material inducement to Mortgagee in the making of the loan evidenced by the Note, without which Mortgagee would have been unwilling to proceed with the closing of the loan. Notwithstanding anything herein to the contrary, any transfer permitted pursuant to the terms of this Security Instrument (including, without limitation, those described in subsection 1.4 of this Security Instrument) shall be subject to compliance with the provisions of

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this subsection. Any such proposed transfer that would violate the terms of this subsection or otherwise cause the Loan to be characterized as a prohibited transaction under ERISA shall be prohibited under the terms of the Loan Documents.

7.18. Certain Disclosures. Mortgagee (and its mortgage servicer and their respective assigns) shall have the right to disclose in confidence such financial information regarding Mortgagor, any Guarantor or the Premises as may be necessary (i) to complete any sale or attempted sale of the Note or participations in the loan (or any transfer of the mortgage servicing thereof) evidenced by the Note and the Loan Documents, (ii) to service the Note or (iii) to furnish information concerning the payment status of the Note to the holder or beneficial owner thereof, including, without limitation, all Loan Documents, financial statements, projections, internal memoranda, audits, reports, payment history, appraisals and any and all other information and documentation in Mortgagee's files (and such servicer's files) relating to Mortgagor, any Guarantor and the Premises, provided that, with respect to any such disclosure, Mortgagee shall use good faith efforts to cause all such persons and entities to whom such information is disclosed to agree to keep the information confidential. This authorization shall be irrevocable in favor of Mortgagee (and its mortgage servicer and their respective assigns), and Mortgagor and any Guarantor waive any claims that they may have against Mortgagee, its mortgage servicer and their respective assigns or the party receiving information from Mortgagee pursuant hereto regarding disclosure of information in such files and further waive any alleged damages which they may suffer as a result of such disclosure.

7.19. Integration. This Security Instrument, together with the other Loan Documents, is intended by the parties hereto to be the final, complete and exclusive expression of the agreement between them with respect to the matters set forth herein. This Security Instrument supersedes any and all prior oral or written agreements relating to the subject matter hereof and may not be contradicted by evidence of prior, contemporaneous or subsequent oral agreements of the parties. There are no oral agreements between the parties.

7.20. No Merger. It being the desire and intention of the parties hereto that this Security Instrument and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Mortgagee acquire an additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in appropriate document duly recorded, this Security Instrument and the lien hereof shall not merge in the fee simple title, toward the end that this Security Instrument may be foreclosed as if owned by a stranger to the fee simple title. Further, it is not the intention of the parties that any obligation of Mortgagor to pay or to reimburse Mortgagee for costs and expenses, including reasonable attorneys' fees and costs, be merged in any

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foreclosure judgment or the conclusion of any other enforcement action, and all such obligations shall survive the entry of any foreclosure judgment or the conclusion of any other enforcement action.

7.21. Construction. Each of the parties hereto has been represented by counsel and the terms of this Security Instrument have been fully negotiated. This Security Instrument shall not be construed more strongly against any party regardless of which party may be considered to have been more responsible for its preparation.

7.22. Jurisdiction. Mortgagor hereby irrevocably submits to the non-exclusive jurisdiction of any United States federal or state court for Cook County, Illinois, in any action or proceeding arising out of or relating to this Security Instrument, and irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such United States federal or state court. Mortgagor irrevocably waives any objection, including, without limitation, any objection to the laying of venue or based on the grounds of *forum non conveniens*, that it may now or hereafter have to the bringing of any such action or proceedings in such jurisdiction. Mortgagor irrevocably consents to the service of any and all process in any such action or proceeding brought in any such court by the delivery of copies of such process to Mortgagor at its address specified for notices to be given hereunder or by certified mail directed to such address.

7.23. Joint and Several Liability. Each TIC Member shall be jointly and severally liable for all obligations of Mortgagor under this Security Instrument and the other Loan Documents.

7.24. Waiver of Jury Trial. THE PARTIES HERETO, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL, KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVE, TO THE FULL EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED ON OR ARISING OUT OF THIS SECURITY INSTRUMENT, OR ANY RELATED INSTRUMENT OR AGREEMENT, OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS, WHETHER ORAL OR WRITTEN, OR ACTION OF ANY PARTY HERETO. NO PARTY SHALL SEEK TO CONSOLIDATE BY COUNTERCLAIM OR OTHERWISE ANY SUCH ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY ANY PARTY HERETO EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY ALL PARTIES.

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7.25. Special State Provisions.

(a) The Note provides, among other things, for final payment of principal and interest under the Note, if not sooner paid or payable as provided therein, to be due on the Maturity Date.

(b) To the full extent permitted by law, Mortgagor hereby voluntarily and knowingly expressly waives any and all rights of redemption and reinstatement under the Illinois Mortgage Foreclosure Law, 735 Illinois Compiled Statutes 5/15-1101 *et seq.* (the "IMFL"), on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date hereof. Mortgagor acknowledges that the Premises does not constitute agricultural real estate as defined in Section 15-1201 of the IMFL or residential real estate as defined in Section 5-1219 of the IMFL. Mortgagor also hereby expressly releases and waives all rights under and by virtue of the homestead exemption laws of the State of Illinois.

(c) In the event that any provision of this Security Instrument shall be inconsistent with any provision of the IMFL, the provisions of the IMFL shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the IMFL. If any provision of this Security Instrument shall grant to Mortgagee any rights or remedies upon any Event of Default by Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the IMFL in the absence of said provision, Mortgagee shall be vested with the rights granted in the IMFL to the full extent permitted by law. Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under the IMFL, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Security Instrument, shall be added to the debt secured by this Security Instrument or by the judgment of foreclosure.

(d) Mortgagor covenants and agrees that all of the proceeds of the indebtedness secured by this Security Instrument will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and Mortgagor further represents and warrants to Mortgagee that the loan evidenced by the Note and secured by this Security Instrument constitutes (i) a business loan transaction within the meaning of 815 ILCS 205/4(1)(c), and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1)(1).

(e) In addition to any provision of this Security Instrument authorizing Mortgagee to take or be placed in possession of the Premises, or for the

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appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 5/15-1701 and 5/15-1702 of the IMFL, to be placed in possession of the Premises or at its request to have a receiver appointed, and such receiver or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Security Instrument, all rights, powers, immunities, and duties as provided for in Sections 5/15-1701 and 5/15-1703 of the IMFL.

Section 8. Partial Release Privilege.

8.1. Partial Release. Provided no Event of Default shall have occurred and be continuing under this Security Instrument or any of the other Loan Documents, and no event shall have occurred that with the passage of time or the giving of notice, or both, would be or become an Event of Default, commencing on the first (1st) day of the second (2nd) Loan Year (as defined in the Note), Mortgagor shall be allowed to obtain, upon not less than thirty (30) days prior written notice to Mortgagee (the "Release Request"), the release of all or a portion of Lot 3 of Pulaski Promenade Subdivision, as recorded as Document No. 1916516052 in the real property records of Cook County, Illinois, which property comprises a portion of the Premises abutting South Pulaski Road and contains an approximately 7,888 square foot multi-tenant building thereon (the "Proposed Release Parcel"), from the lien of this Security Instrument (the "Release Privilege"), subject to and upon the following terms and conditions:

(a) Promptly following Mortgagee's receipt of the Release Request, Mortgagee shall determine the release price payable for the Proposed Release Parcel (the "Release Price"), which shall be an amount equal to (i) the Release Factor (as hereinafter defined) multiplied by (ii) the then remaining outstanding principal balance of the Note allocated to the Proposed Release Parcel as determined by Mortgagee in its sole discretion at the time of its receipt of the Release Request based upon the then current state of the Premises. For purposes of determining the Release Price, the "Release Factor" shall be one hundred twenty percent (120%). Mortgagee shall have the right to apply the Release Price to the reduction of the indebtedness secured by this Security Instrument in such manner as Mortgagee determines in its sole discretion.

(b) In addition to the Release Price, Mortgagor shall also pay to Mortgagee, simultaneous with payment of the Release Price, (i) all accrued and outstanding interest, late charges and other sums then due under the Note, and (ii) the Prepayment Premium (as defined in the Note) payable on such Release Price calculated in accordance with Section 5 of the Note.

(c) As of the effective date of the release, the portion of the Premises remaining after giving effect to the release of the Proposed Release Parcel (the "Remainder Parcel") must:

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- (i) Be at least ninety percent (90%) leased to tenants in occupancy and paying rent;
- (ii) Have an aggregate debt yield (net operating income in respect of the Remainder Parcel divided by the aggregate outstanding principal balance of the Note) in excess of eleven and one-half percent (11.5%) (as used herein, "net operating income" shall mean gross cash operating receipts from the Remainder Parcel, less normal and customary operating expenses incurred in the operation, management and maintenance of the Premises); and
- (iii) Have an aggregate debt service coverage ratio of not less than 1.50x from not more than ninety percent (90%) of the Remainder Parcel.
- (d) For the avoidance of doubt, no portion of the Premises other than the Proposed Release Parcel shall be eligible for release hereunder, including, but not limited to, any portion of the multi-tenant retail building located at the Premises totaling approximately 114,822 square feet.
- (e) There shall not exist, either on the date of the Release Request or on the date of the closing of the release of the Proposed Release Parcel, any Event of Default under any of the Loan Documents.
- (f) Mortgagor shall have received and approved (in its reasonable discretion) in writing a preliminary subdivision plat showing the subdivision of the Proposed Release Parcel from the Remainder Parcel.
- (g) Such proposed subdivision shall not adversely impact the Remainder Parcel with regard to setbacks, parking, zoning, and any other restrictions or requirements imposed by recorded documents, any existing lease of any portion of the Remainder Parcel or any applicable rule or regulation.
- (h) The final subdivision plat with respect to the subdivision of the Proposed Release Parcel from the Premises shall not materially differ from the preliminary subdivision plat submitted to and approved by Mortgagee, and such final subdivision plat shall have received final approval from all applicable governmental authorities, departments and agencies.
- (i) A new legal description for each of the Proposed Release Parcel and the Remainder Parcel shall be submitted to and subject to the approval of Mortgagee (in its reasonable discretion).
- (j) Mortgagor shall provide evidence satisfactory to Mortgagee that exercise of the Release Privilege will not adversely impact the ability of Mortgagee

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to comply with the terms of any lease of the Premises after a foreclosure or other acquisition of title by Mortgagee.

(k) The Proposed Release Parcel shall have been legally and validly subdivided and shall be (or will be upon the next tax assessment without further action) recognized by the applicable governmental authorities, departments and agencies as a separate, stand-alone tax parcel.

(l) Mortgagor shall encumber the Proposed Release Parcel with any covenants or restrictions as Mortgagee may reasonably require in order to protect the Remainder Parcel and its tenants.

(m) Mortgagor shall provide Mortgagee with an endorsement to Mortgagee's loan title policy delivered at the time of the closing of the Loan with respect to the Remainder Parcel (or a new loan policy, as the case may be), in form and substance satisfactory to Mortgagee in its sole discretion, insuring the Loan and lien of this Security instrument through the date and time of recording of the release and modification instrument in connection with the release of the Proposed Release Parcel, with no new exceptions since the date hereof unless approved by Mortgagee in writing.

(n) If necessary or requested by Mortgagee, Mortgagor shall have created easements for utilities, signage, drainage, parking, ingress and egress and other appropriate purposes in, on and over the Proposed Release Parcel for the benefit of the Remainder Parcel, and such easements shall be insured as appurtenances in Mortgagee's loan policy via the endorsement (or policy, as the case may be) required in the foregoing subsection 8.1(m) if applicable.

(o) Mortgagor and each Guarantor shall reaffirm their respective obligations under the Loan Documents and the Environmental Indemnification Agreement dated as of this same date pursuant to one or more reaffirmation or ratification agreements in form and substance satisfactory to Mortgagee.

(p) Mortgagor shall pay all costs, fees and expenses associated with the exercise of the Release Privilege, including, without limitation, all reasonable attorneys' fees, costs and expenses incurred by or on behalf of Mortgagee in connection therewith, and all such sums, including the Release Price and the applicable prepayment premium described in subsection 8.1(b) above, shall be due and payable on the date of closing and delivery of the release documentation by Mortgagee.

(q) Mortgagor shall pay a non-refundable processing fee to Lender in an amount equal to \$5,000.00 upon the release of the Proposed Release Parcel. A release deposit of \$5,000.00 shall be required with the submission of the Release Request, which deposit shall be applied to such processing fee upon the release

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of the Proposed Release Parcel. The deposit and processing fee set forth in this subsection 8.1(q) are in addition to any and all reasonable attorneys' fees, costs, and expenses incurred by Mortgagee in connection with the documentation of the Release Privilege and in the review of any and all due diligence materials in connection therewith.

Mortgagor acknowledges receipt of a copy of this Security Instrument at the time of the execution thereof.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; END OF PAGINATED TEXT;
SIGNATURE PAGES FOLLOW]

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IN WITNESS WHEREOF, Mortgagor has duly executed this Security Instrument on the date stated in the respective acknowledgments set forth below, to be effective as of the Effective Date.

RICH-LAWNDALE, LLC, a California limited liability company

By: _____
Name: Joseph W. Rich
Title: Manager

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

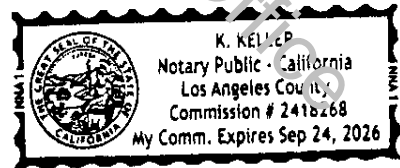
County of Los Angeles

On 9-20-2023, before me K. Keller, Notary Public, personally appeared Joseph W. Rich, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

K. Keller (Seal)
(Signature)



[SIGNATURE PAGE TO MORTGAGE; CONTINUED ON FOLLOWING PAGE]

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15501 GARDENA, LLC, a California limited liability company

By: _____
Name: Joseph W. Rich
Title: Manager

A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document, to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

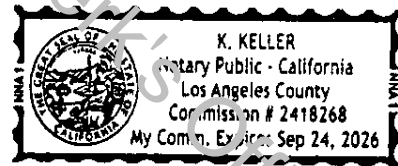
County of LOS ANGELES

On 9-20-2023, before me, K. Keller,
Notary Public, personally appeared Joseph W. Rich, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

K. Keller (Seal)
(Signature)



[CONTINUATION OF SIGNATURE PAGES TO MORTGAGE]

UNOFFICIAL COPY

Exhibit "A"

Legal Description

PARCEL 1:

LOTS 1 AND 3 IN PULASKI PROMENADE SUBDIVISION, BEING A SUBDIVISION OF THAT PART OF THE NORTHEAST QUARTER OF SECTION 3, LYING SOUTH OF THE ILLINOIS AND MICHIGAN CANAL RESERVE, IN TOWNSHIP 38 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 14, 2019 AS DOCUMENT 1916516052, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 DATED SEPTEMBER 10, 2019 AND RECORDED SEPTEMBER 12, 2019 AS DOCUMENT NUMBER 1925534066 CREATED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL RIGHTS MADE BY PULASKI PROMENADE, LLC FOR THE PURPOSE OF ACCESS, INGRESS AND EGRESS.

PARCEL 3:

NON-EXCLUSIVE EASEMENTS FOR THE BENEFIT OF PARCEL 1 AS GRANTED BY THE DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RECIPROCAL RIGHTS RECORDED FEBRUARY 10, 2022 AS DOCUMENT NUMBER 2204112280 FOR THE PURPOSE OF (i) REASONABLE ACCESS, INGRESS AND EGRESS OVER ALL PAVED DRIVEWAYS, ROADWAYS AND WALKWAYS AND (ii) INSTALLING, MAINTAINING, REPAIRING AND REPLACING WATER MAINS, STORM DRAINS, SEWERS, WATER SPRINKLER SYSTEMS LINES, TELEPHONE OR ELECTRICAL CONDUITS OR SYSTEMS, CABLE, GAS MAINS, OTHER UTILITY FACILITIES AND SIGNAGE.

Common Address:

4110 & 4150 South Pulaski Road, Chicago, Illinois 60632

Tax Identification Numbers:

19-03-201-059-0000

19-03-201-061-0000