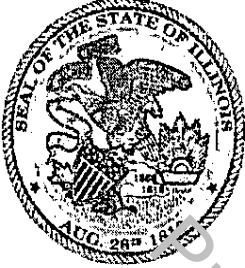


Illinois Anti-Predatory
Lending Database
Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2333510031

Doc# 2333510031 Fee \$88.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/01/2023 02:12 PM PG: 1 OF 31

The property identified as: **PIN:** 12-31-100-005-0000

Address:

Street: 505 NORTHWEST AVENUE

Street line 2:

City: NORTHLAKE

State: IL

ZIP Code: 60164

Lender: WILMINGTON TRUST, NATIONAL ASSOCIATION

Borrower: ALIGNED DATA CENTERS (ORD) PROPCO, LLC

Loan / Mortgage Amount: \$300,000,000.00

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

Certificate number: 5C2669C0-6ABF-4A57-AA28-67555112B0C9

Execution date: 11/29/2023

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INSTRUMENT PREPARED BY:

Alison Pearman
King & Spalding
1700 Pennsylvania Avenue NW, Suite 900
Washington DC 20006

WHEN RECORDED MAIL TO:

Latham & Watkins LLP
1271 6th Avenue
New York, NY 10020
Attn: Corrie Peach

THIS SPACE FOR RECORDER'S USE ONLY

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

MORTGAGOR: ALIGNED DATA CENTERS (ORD) PROPCO, LLC,
a Delaware limited liability company

MORTGAGEE: WILMINGTON TRUST, NATIONAL ASSOCIATION,
a national banking association

Dated: As of November 29, 2023

Location: 505 Northwest Avenue, Northlake, IL

County: Cook

PIN: 12-31-100-005-0000
12-31-301-021-0000
12-31-301-033-0000
12-31-100-008-0000
12-31-301-043-0000

Legal description is on Exhibit A

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

This MORTGAGE, FIXTURE FILING, SECURITY AGREEMENT AND ASSIGNMENT OF LEASES AND RENTS, dated as of the date set forth on the cover page (as the same may be amended, supplemented, extended or otherwise modified from time to time, collectively, this “**Mortgage**”), is made by **ALIGNED DATA CENTERS (ORD) PROPCO, LLC**, a Delaware limited liability company, as Mortgagor, whose address is c/o Aligned Energy Holdings, LP, 2800 Summit Avenue, Plano, TX 75074 (“**Mortgagor**”), in favor of **WILMINGTON TRUST, NATIONAL ASSOCIATION**, a national banking association, as Indenture Trustee under the Indenture described below, for the benefit of the Noteholders (as defined below), with an address at Rodney Square North, 1100 N. Market Street, Wilmington, Delaware 19890 (in such capacity, “**Mortgagee**”, which term shall be deemed to include successors and assigns under this Mortgage). References to this “**Mortgage**” shall mean this instrument and any and all renewals, modifications, amendments, supplements and extensions of this instrument.

Background

A. Mortgagor is the owner of (i) the fee simple estate in the parcel(s) of real property described on Schedule A attached (the “**Owned Land**”), and, other than buildings, improvements, structures and fixtures owned by lessees under Leases (as defined below), owns, leases or otherwise has the right to use all of the buildings, improvements, structures and fixtures now or subsequently located on the Owned Land (the “**Improvements**”; the Owned Land and the Improvements being collectively referred to as the “**Real Estate**”).

B. Pursuant to that certain Indenture dated as of August 25, 2021, among Mortgagee, Aligned Data Centers Issuer, LLC, a Delaware limited liability company (the “**Issuer**”), Mortgagor, and certain other parties named therein (as the same may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, the “**Indenture**”), Issuer has incurred indebtedness evidenced by notes, and may from time to time incur additional indebtedness and issue additional series of notes pursuant to the provisions of the Indenture (as such notes may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, and any notes issued pursuant to the Indenture after the date hereof, collectively, the “**Notes**”). The holders of the Notes from time to time and their successors and assigns are hereinafter referred to as the “**Noteholders**”. The terms of the Indenture are incorporated by reference in this Mortgage as if the terms thereof were fully set forth herein. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Indenture. References in this Mortgage to the “**Default Rate**” shall mean the weighted average of the Note Rates from time to time applicable to the Notes.

C. Pursuant to the Indenture, Mortgagor has unconditionally and irrevocably guaranteed to each Noteholder, Mortgagee and the Servicer the Guaranteed Obligations (as

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the same may be amended, restated, replaced, supplemented, substituted, or otherwise modified from time to time, the “**Guarantee**”).

D. Pursuant to the Indenture, Mortgagor has executed and delivered this Mortgage for the benefit of the Noteholders and such other parties designated in the Indenture from time to time as holding Obligations (defined below).

Now, therefore, in consideration of the foregoing, the parties hereby agree as follows:

Granting Clauses

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to secure the following obligations (collectively, the “**Obligations**”):

- (a) the due and punctual payment and performance by Mortgagor of all its obligations and liabilities, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred which may arise under, out of or otherwise in connection with the Transaction Documents (as such term is defined below) (including, without limitation, all Guaranteed Obligations (as defined in the Indenture));
- (b) the payment of all other obligations and liabilities of Mortgagor, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of, or in connection with, this Mortgage and any other document securing payment of the Obligations (collectively, the “**Security Documents**”), any other financial accommodation (including, without limitation, any interest rate swap, cap, collar, floor or similar derivative product) that is designated pursuant to the Indenture as being secured by this Mortgage, any indemnity agreement, any account control agreement or any management agreement pursuant to which assets of Mortgagor and/or the proceeds thereof are managed or administered, any other guarantee of the Obligations, or any other Transaction Document, and any amendments, supplements, extensions, renewals, restatements, replacements or modifications of any of the foregoing (the Indenture, the Notes, the Guarantee, this Mortgage, the other Security Documents, any such other financial accommodation, indemnity agreement and management agreement and all other documents and instruments from time to time evidencing, securing or guaranteeing the payment and performance of the Obligations, as any of the same may be amended,

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supplemented, extended, renewed, restated, replaced or modified from time to time, are collectively referred to as the “**Transaction Documents**”), in each case whether on account of principal, interest, reimbursement obligations, fees, indemnities, costs, expenses or otherwise (including, without limitation, all reasonable fees, charges and disbursements of counsel to Mortgagee that are required to be paid by Mortgagor pursuant to the terms of the Indenture, this Mortgage or any other Transaction Document); and

- (c) the performance and observance of each obligation, term, covenant and condition to be performed or observed by Mortgagor under, in connection with or pursuant to the provisions of the Transaction Documents.

MORTGAGOR HEREBY GRANTS, BARGAINS, SELLS AND CONVEYS TO MORTGAGEE ALL OF MORTGAGOR’S RIGHT, TITLE AND INTEREST, NOW OWNED OR HEREAFTER ACQUIRED, IN, TO AND UNDER THE FOLLOWING PROPERTY AND RIGHTS:

- (A) the Owned Land and all Improvements thereon;

(B) all right, title and interest of Mortgagor in, to and under all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water and riparian rights, development rights, air rights, mineral rights and all estates, rights, titles, interests, privileges, licenses, tenements, hereditaments and appurtenances belonging, relating or appertaining to the Real Estate, and any reversions, remainders, rents, issues, profits and revenue thereof and all land lying in the bed of any street, road or avenue, in front of or adjoining the Real Estate to the center line thereof;

(C) all of the fixtures, chattels, business machines, machinery, apparatus, equipment, furnishings, fittings and articles of personal property of every kind and nature whatsoever, and all appurtenances and additions thereto and substitutions or replacements thereof (together with, in each case, attachments, components, parts and accessories) currently owned or subsequently acquired by Mortgagor and now or subsequently attached to, or contained in or used or usable in any way in connection with any operation or letting of the Real Estate, including but without limiting the generality of the foregoing, all heating, electrical, and mechanical equipment, lighting, switchboards, plumbing, ventilating, air conditioning and air-cooling apparatus, loading and unloading equipment and systems, communication systems (including satellite dishes and antennae), computers, sprinkler systems and other fire prevention and extinguishing apparatus and materials, security systems, motors, engines, machinery, pipes, pumps, tanks,

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conduits, appliances, fittings and fixtures of every kind and description (all of the foregoing in this paragraph (C) being referred to as the “**Equipment**”);

(D) all right, title and interest of Mortgagor in and to all substitutes and replacements of, and all additions and improvements to, the Real Estate and the Equipment, subsequently acquired by or released to Mortgagor or constructed, assembled or placed by Mortgagor on the Real Estate, immediately upon such acquisition, release, construction, assembling or placement, including, without limitation, any and all building materials whether stored at the Real Estate or offsite that are being incorporated into the Improvements, and, in each such case, without any further mortgage, conveyance, assignment or other act by Mortgagor;

(E) all right, title and interest of Mortgagor in, to and under all leases, subleases, underlettings, concession agreements, management agreements, licenses and other agreements relating to the use or occupancy of the Real Estate or the Equipment or any part thereof, now existing or subsequently entered into by Mortgagor and whether written or oral and all guarantees of any of the foregoing (collectively, as any of the foregoing may be amended, restated, extended, renewed or modified from time to time, the “**Leases**”), and all rights of Mortgagor in respect of cash and securities deposited thereunder and the right to receive and collect the revenues, income, rents, issues and profits thereof, together with all other rents, royalties, issues, profits, revenue, income and other benefits arising from the use and enjoyment of the Mortgaged Property (as defined below) (collectively, the “**Rents**”);

(F) all unearned premiums under insurance policies now or subsequently obtained by Mortgagor relating to the Real Estate or Equipment and Mortgagor’s interest in and to all such insurance policies and all proceeds of such insurance policies, including the right to collect and receive such proceeds, subject to the provisions relating to insurance generally set forth herein and in the Indenture; and all awards and other compensation, including the interest payable thereon and the right to collect and receive the same, made to the present or any subsequent owner of the Real Estate or Equipment for the taking by eminent domain, condemnation or otherwise, of all or any part of the Real Estate or any easement or other right therein, subject to the provisions relating to such awards and compensation generally set forth herein and in the Indenture;

(G) to the extent assignable, all right, title and interest of Mortgagor in and to (i) all contracts from time to time executed by Mortgagor or any manager or agent on its behalf relating to the ownership, construction, maintenance, repair, operation, occupancy, sale or financing of the Real Estate or Equipment or any part thereof and all option, purchase and sale and other agreements relating to the purchase or lease of any portion of the Real Estate, together with the right to exercise the options thereunder and all leases of Equipment, (ii) all consents, licenses,

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building permits, certificates of occupancy and other governmental approvals relating to construction, completion, occupancy, use or operation of the Real Estate or any part thereof and (iii) all drawings, plans, specifications and similar or related items relating to the Real Estate;

(H) any and all monies now or subsequently on deposit for the payment of real estate taxes or special assessments against the Real Estate or for the payment of premiums on insurance policies covering the foregoing property or otherwise on deposit with or held by Mortgagee as provided in this Mortgage; and

(I) all proceeds, both cash and noncash, of the foregoing.

(All of the foregoing property and rights and interests now owned or held or subsequently acquired by Mortgagor and described in the foregoing clauses (A) through (D) are collectively referred to as the “**Premises**”, and those described in the foregoing clauses (A) through (I) are collectively referred to as the “**Mortgaged Property**”).

TO HAVE AND TO HOLD the Mortgaged Property and the rights and privileges hereby granted and conveyed unto Mortgagee and Mortgagee’s successors and assigns, for the uses and purposes set forth unto Mortgagee for so long as any of the Obligations remain outstanding, upon the trust, terms and conditions contained herein.

Upon condition, however, that if the indebtedness secured by this Mortgage is paid and satisfied in full, and the interest thereon, and all other Obligations under this Mortgage are fulfilled, then this conveyance shall be null and void and Mortgagee will, at Mortgagor’s cost and expense, deliver a discharge, release or assignment without representation or warranty, except as to outstanding principal balance or as required under applicable law.

Terms and Conditions

Mortgagor further represents, warrants, covenants and agrees with Mortgagee as follows:

1. Warranty of Title. Mortgagor warrants that it has record title in fee simple to the Owned Land and a valid ownership interest in the rest of the Mortgaged Property, subject only to the matters and liens expressly permitted by the Indenture (the “**Permitted Encumbrances**”). Mortgagor shall warrant, defend and preserve such title and the lien of this Mortgage and such lien’s priority against all claims of all persons and entities. Mortgagor represents and warrants that it has the right to encumber the Mortgaged Property with this Mortgage.

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2. Payment of the Obligations. Mortgagor shall pay and perform the Obligations at the times and places and in the manner specified in the Transaction Documents.

3. Insurance. Mortgagor shall maintain or cause to be maintained on all of the Premises such insurance in such amounts as is required pursuant to the Indenture. In the event of foreclosure of this Mortgage or other transfer of title to the Mortgaged Property, all right, title and interest of Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee to the extent assignable. Mortgagor shall cause all proceeds of any insurance policies insuring against loss or damage to the Mortgaged Property to be applied in accordance with the Transaction Documents.

4. Condemnation/Eminent Domain. Promptly upon obtaining knowledge of the institution of any proceedings for the condemnation of the Mortgaged Property, or any portion thereof, Mortgagor will notify Mortgagee of the pendency of such proceedings. Mortgagor shall cause all condemnation awards to be applied in accordance with the Transaction Documents.

5. Leases. Except as may be expressly permitted under the Indenture, Mortgagor shall not execute an assignment or pledge of any Lease relating to all or any portion of the Mortgaged Property other than in favor of Mortgagee.

6. Further Assurances. To the extent permitted under applicable law, and to further assure Mortgagee's rights under this Mortgage, Mortgagor agrees, within fifteen (15) business days after demand of Mortgagee, to do any act or execute any additional documents (including, but not limited to, security agreements on any personalty included or to be included in the Mortgaged Property and a separate assignment of each Lease in recordable form) as may be reasonably required by Mortgagee to confirm the lien of this Mortgage and all other rights or benefits conferred on Mortgagee by this Mortgage.

7. Changes In Tax, Obligations, Credit And Documentary Stamp Laws. If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Obligations from the value of the Real Estate for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Obligations or Mortgagee's interest in the Real Estate, Mortgagor will pay the tax, with interest and penalties thereon, if any.

If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Notes, this Mortgage or any of the other Transaction Documents or impose any other tax or charge on the same, Mortgagor will pay for the same, with interest and penalties thereon, if any.

Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Obligations for any part of the Impositions (as defined in the Indenture)

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assessed against the Real Estate, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Real Estate, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Obligations.

8. Mortgagee's Right to Perform. If Mortgagor fails to perform any of the covenants or agreements of Mortgage hereunder or under any other Transaction Document within the applicable notice and grace period, if any, Mortgagee, without waiving or releasing Mortgagor from any obligation or default under this Mortgage, may, at any time (but shall be under no obligation to) pay or perform the same, and the amount or cost thereof, with interest at the Default Rate, shall immediately be due from Mortgagor to Mortgagee. All such amounts or costs, together with interest thereon at the Default Rate, shall be added to the Obligations and shall be secured by this Mortgage and shall be a lien on the Mortgaged Property prior to any right, title to, interest in, or claim upon the Mortgaged Property attaching subsequent to the lien of this Mortgage. No payment or advance of money by Mortgagee under this Section shall be deemed or construed to cure Mortgagor's default or waive any right or remedy of Mortgagee. Upon the occurrence and during the continuance of any Event of Default or if Mortgagor fails to make any payment or to do any act as herein provided, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, make or do the same in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Subject to the rights of the tenants under the Leases, Mortgagee is authorized to enter upon the Real Estate for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Mortgaged Property or to foreclose this Mortgage or collect the Obligations, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest at the Default Rate, shall constitute a portion of the Obligations and shall be due and payable to Mortgagee upon demand. All other costs and expenses incurred by Mortgagee in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding (including reasonable attorneys' fees to the extent permitted by law) shall bear interest at the Default Rate, for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee. All such other costs and expenses incurred by Mortgagee together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Obligations and be secured by this Mortgage and the other Security Documents and shall be immediately due and payable upon demand by Mortgagee therefor.

9. Remedies.

(a) Upon the occurrence and during the continuance of any Event of Default, in addition to any other rights and remedies Mortgagee may have pursuant to the Transaction Documents, or as provided by law, and without limitation, Mortgagee may immediately take such action, without notice or demand except to the extent required by

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applicable law, as it deems advisable to protect and enforce its rights against Mortgagor and in and to the Mortgaged Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such manner as Mortgagee may determine without impairing or otherwise affecting the other rights and remedies of Mortgagee, in each case to the extent permitted under applicable law:

(i) Mortgagee may, to the extent permitted by applicable law, (A) institute and maintain an action of mortgage foreclosure against all or any part of the Mortgaged Property, (B) institute and maintain an action under the Indenture or any other Transaction Document, or (C) take such other action at law or in equity for the enforcement of this Mortgage or any of the Transaction Documents as the law may allow. Mortgagee may proceed in any such action to final judgment and execution thereon for all sums due hereunder, together with interest thereon at the Default Rate and all costs of suit, including, without limitation, reasonable attorneys' fees and disbursements. Interest at the Default Rate shall be due on any judgment obtained by Mortgagee from the date of judgment until actual payment is made of the full amount of the judgment;

(ii) Mortgagee may personally, or by its agents, attorneys and employees and without regard to the adequacy or inadequacy of the Mortgaged Property or any other collateral as security for the Obligations enter into and upon the Mortgaged Property and each and every part thereof and exclude Mortgagor and its agents and employees therefrom without liability for trespass, damage or otherwise (Mortgagor hereby agreeing to surrender possession of the Mortgaged Property to Mortgagee upon demand at any such time) and, subject to the Leases, use, operate, manage, maintain and control of the Mortgaged Property and every part thereof. Following such entry and taking of possession, Mortgagee shall be entitled, without limitation except as set forth in the Leases, (x) to lease all or any part or parts of the Mortgaged Property for such periods of time and upon such conditions as Mortgagee may, in its discretion, deem proper, (y) to enforce any Lease and (z) generally to execute, do and perform any other act, deed, matter or thing concerning the Mortgaged Property as Mortgagee shall deem appropriate as fully as Mortgagor might do;

(iii) Mortgagee may declare the entire unpaid Obligations to be immediately due and payable in accordance with the terms of the Indenture;

(iv) Mortgagee may institute judicial proceedings, for the complete foreclosure of this Mortgage under any applicable provision of law, in which case the Real Estate or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

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(v) Mortgagee may, with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Obligations then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Obligations not then due, unimpaired and without loss of priority.

(vi) Mortgagee may institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Notes, the Indenture or in the other Transaction Documents;

(vii) Mortgagee may recover judgment on the Notes and other Obligations either before, during or after any proceedings for the enforcement of this Mortgage or the other Transaction Documents, subject to the limits and procedures of applicable law;

(viii) Mortgagee may apply for the appointment of a receiver, trustee, liquidator or conservator of the Real Estate, without notice and without regard for the adequacy of the security for the Obligations and without regard for the solvency of Mortgagor, any guarantor, indemnitor with respect to the Obligations or of any Person otherwise liable for the payment of the Obligations;

(ix) the rights granted to Mortgagor under Section 14 hereof shall automatically be revoked and Mortgagee may enter into or upon the Real Estate, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession of the Real Estate and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may, subject to the requirements of the Leases (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Mortgaged Property and conduct the business thereat; (ii) complete any construction on the Real Estate in such manner and form as Mortgagee deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Real Estate; (iv) exercise all rights and powers of Mortgagor with respect to the Mortgaged Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases in accordance with their terms, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Real Estate and every part thereof; (v) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Real Estate as may be occupied by Mortgagor; (vi) require Mortgagor to vacate and surrender possession of the Real Estate to Mortgagee or to such receiver and, in default thereof, Mortgagor

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may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Mortgaged Property to the payment of the Obligations, in such order, priority and proportions as Mortgagee shall deem appropriate after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, other charges, insurance and other expenses in connection with the Mortgaged Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees;

(x) Mortgagee may exercise any and all rights and remedies granted to a secured party upon default under the Code (as defined below), including the right to take possession of the fixtures, the equipment and any other portion of the Mortgaged Property which is personal property (collectively, the "**Personal Property**"), or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the fixtures, the equipment and the Personal Property. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Equipment and/or the Personal Property sent to Mortgagor in accordance with the provisions hereof at least fifteen (15) days prior to such action, shall constitute commercially reasonable notice to Mortgagor;

(xi) Mortgagee may apply any sums then deposited or held in escrow or otherwise by or on behalf of Mortgagee in accordance with the terms of the Indenture, this Mortgage or any other Transaction Document to the payment of the following items in any order in its uncontrolled discretion:

- (A) Impositions;
- (B) insurance premiums;
- (C) interest on the unpaid principal balance of the Notes;
- (D) amortization of the unpaid principal balance of the Notes;

(E) all other sums payable pursuant to the Notes, the Indenture, this Mortgage and the other Transaction Documents, including without limitation advances made by Mortgagee pursuant to the terms of this Mortgage; or

(xiv) pursue such other remedies as Mortgagee may have under applicable law.

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In the event of a sale, by foreclosure, of less than all of the Mortgaged Property, this Mortgage shall continue as a lien and security interest on the remaining portion of the Mortgaged Property unimpaired and without loss of priority.

(b) Mortgagee, in any action to foreclose this Mortgage in a judicial procedure, shall be entitled to the appointment of a receiver. In case of a foreclosure sale, the Real Estate and the related Personal Property may be sold in one parcel or in more than one parcel and Mortgagee is specifically empowered (without being required to do so, and in its discretion) to cause successive sales of portions of the Mortgaged Property to be held.

(c) In the event of any breach of any of the covenants, agreements, terms or conditions contained in this Mortgage beyond the applicable notice and grace period, if any, Mortgagee shall be entitled to enjoin such breach and obtain specific performance of any covenant, agreement, term or condition and Mortgagee shall have the right to invoke any equitable right or remedy as though other remedies were not provided for in this Mortgage.

10. Right of Mortgagee to Credit Sale. Upon the occurrence of any sale made under this Mortgage, Mortgagee may bid for and acquire the Mortgaged Property or any part thereof. In lieu of paying cash therefor, to the extent allowed under applicable law, Mortgagee may make settlement for the purchase price by crediting upon the Obligations or other sums secured by this Mortgage the net sales price after deducting therefrom the expenses of sale and the cost of the action and any other sums which Mortgagee is authorized to deduct under this Mortgage. In such event, this Mortgage, the Indenture, and documents evidencing expenditures secured hereby may be presented to the person or persons conducting the sale in order that the amount so used or applied may be credited upon the Obligations as having been paid.

11. Appointment of Receiver. If an Event of Default shall have occurred and be continuing, to the extent permitted under applicable law, Mortgagee as a matter of right and without notice to Mortgagor, unless otherwise required by applicable law, and without regard to the adequacy or inadequacy of the Mortgaged Property or any other collateral as security for the Obligations or the interest of Mortgagor therein, shall have the right to apply to any court having jurisdiction to appoint a receiver or receivers or other manager of the Mortgaged Property, and Mortgagor hereby irrevocably consents to such appointment and waives notice of any application therefor (except as may be required by law). Any such receiver or receivers shall have all the usual powers and duties of receivers in like or similar cases and all the powers and duties of Mortgagee in case of entry as provided in this Mortgage, including, without limitation and to the extent permitted by law, the right to enter into leases of all or any part of the Mortgaged Property, and shall continue as such and exercise all such powers until the date of confirmation of sale of the Mortgaged Property unless such receivership is sooner terminated.

12. Extension, Release, etc.

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(a) Without affecting the lien or charge of this Mortgage upon any portion of the Mortgaged Property not then or theretofore released as security for the full amount of the Obligations, Mortgagee may, from time to time and without notice, agree with Mortgagor to (i) release any person liable for the Obligations, (ii) extend the maturity or alter any of the terms of the Obligations, (iii) grant other indulgences, (iv) release or reconvey, or cause to be released or reconveyed at any time at Mortgagee's option any parcel, portion or all of the Mortgaged Property, (v) take or release any other or additional security for any obligation herein mentioned, or (vi) make compositions or other arrangements with debtors in relation thereto. If at any time this Mortgage shall secure less than all of the principal amount of the Obligations, it is expressly agreed that any repayments of the principal amount of the Obligations shall not reduce the amount of the lien of this Mortgage until the lien amount shall equal the principal amount of the Obligations outstanding. No recovery of any judgment by Mortgagee and no levy of an execution under any judgment upon the Mortgaged Property or upon any other property of Mortgagor shall affect the lien of this Mortgage or any liens, rights, powers or remedies of Mortgagee hereunder, and such liens, rights, powers and remedies shall continue unimpaired.

(b) If Mortgagee shall have the right to foreclose this Mortgage, Mortgagor authorizes Mortgagee at its option to foreclose the lien created by this Mortgage subject to the rights of any tenants of the Mortgaged Property. The failure to make any such tenants parties to or defendants in any such foreclosure proceeding and to foreclose their rights, or to provide notice to such tenants as required in any statutory procedure governing a sale of the Mortgaged Property, or to terminate such tenant's rights in such sale will not be asserted by Mortgagor as a defense to any proceeding instituted by Mortgagee to collect the Obligations or to foreclose the lien created by this Mortgage.

(c) Unless expressly provided otherwise, in the event that Mortgagee's interest in this Mortgage and title to the Mortgaged Property or any estate therein shall become vested in the same person or entity, this Mortgage shall not merge in such title but shall continue as a valid lien on the Mortgaged Property for the amount secured hereby.

13. Security Agreement under Uniform Commercial Code.

(a) It is the intention of the parties hereto that this Mortgage shall constitute a "security agreement" within the meaning of the Uniform Commercial Code of the State in which the Premises are located (the "**Code**"). As security for payment and performance of the Obligations, Mortgagor grants a security interest to Mortgagee in all of Mortgagor's right, title and interest, now owned or hereafter acquired in, to and under any of the Mortgaged Property that constitutes personal property. If an Event of Default shall occur, and during the continuance of such Event of Default, then in addition to having any other right or remedy available at law or in equity, Mortgagee shall have the option of either (i) proceeding under the Code and exercising such rights and remedies as may be provided to a secured party by the Code with respect to all or any portion of the Mortgaged Property which

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is personal property (including, without limitation, taking possession of and selling such property) or (ii) treating such property as real property and proceeding with respect to both the real and personal property constituting the Mortgaged Property in accordance with Mortgagee's rights, powers and remedies with respect to the real property (in which event the default provisions of the Code shall not apply). If Mortgagee shall elect to proceed under the Code, then fifteen days' notice of sale of the personal property shall be deemed reasonable notice and the reasonable expenses of retaking, holding, preparing for sale, selling and the like incurred by Mortgagee shall include, but not be limited to, reasonable actual attorneys' fees and legal expenses.

(b) Mortgagor and Mortgagee agree, to the extent permitted by law, that: (i) all of the goods described within the definition of the word "Equipment" are fixtures on the Real Estate; (ii) this Mortgage upon recording or registration in the real estate records of the proper office shall constitute a financing statement filed as a "fixture filing" within the meaning of Sections 9A-334 and 9A-502 of the Code; (iii) Mortgagor is the record owner of the Owned Land, if applicable; and (iv) the addresses of Mortgagor (the debtor) and Mortgagee (the secured party) are as set forth on the first page of this Mortgage.

(c) Mortgagor, upon request by Mortgagee from time to time or as otherwise necessary, shall execute, acknowledge and deliver to Mortgagee one or more separate security agreements, in form satisfactory to Mortgagee, covering all or any part of the Mortgaged Property and confirming the provisions of this Section 13 and will further execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any financing statement, affidavit, continuation statement, amendment or certificate or other document as Mortgagee may reasonably request or as otherwise necessary in order to perfect, preserve, maintain, continue or extend the security interest under and the priority of this Mortgage and such security instrument. Mortgagor further agrees to pay to Mortgagee promptly after demand all costs and expenses incurred by Mortgagee in connection with the preparation, execution, recording, filing and re-filing of any such document and all reasonable costs and expenses of any record searches for financing statements Mortgagee shall reasonably require. In addition, Mortgagor hereby authorizes (without obligation) Mortgagee to file any such financing and continuation statements and amendments. The filing of any financing or continuation statements or amendments in the records relating to personal property or chattels shall not be construed as in any way impairing the right of Mortgagee to proceed against any personal property encumbered by this Mortgage as real property, as set forth above.

14. Assignment of Rents. Mortgagor hereby assigns to Mortgagee, the Rents as further security for the payment and performance of the Obligations, and Mortgagor grants to Mortgagee the right to enter the Mortgaged Property for the purpose of collecting the same and to let the Mortgaged Property or any part thereof, and to apply the Rents on account of the Obligations. The foregoing assignment and grant is intended as security for the

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Obligations and shall continue in effect until the Obligations are paid and performed in full, but Mortgagee hereby waives the right to enter the Mortgaged Property for the purpose of collecting the Rents and Mortgagor shall be entitled to collect, receive, use and retain the Rents until the occurrence of and during the continuance of an Event of Default; such right of Mortgagor to collect, receive, use and retain the Rents may be revoked by Mortgagee upon the occurrence of and during the continuance of any Event of Default by giving not less than fifteen days' written notice of such revocation to Mortgagor; in the event such notice is given, Mortgagor shall pay over to Mortgagee, or to any receiver appointed to collect the Rents, any lease security deposits. Mortgagor acknowledges that upon recordation of this Mortgage Mortgagee shall have a valid and fully perfected, present assignment for security purposes in the Rents arising out of the Leases and all security for such Leases. Mortgagor acknowledges and agrees that upon recordation of this Mortgage, Mortgagee's interest in the Rents shall be deemed to be fully perfected, "choate" and enforced as to Mortgagor and to the extent permitted under applicable law, all third parties, including, without limitation, any subsequently appointed trustee in any case under Title 11 of the Bankruptcy Code, without the necessity of commencing a foreclosure action with respect to this Mortgage, making formal demand for the Rents, obtaining the appointment of a receiver or taking any other affirmative action. Without limitation of the absolute nature of the assignment of the Rents hereunder, Mortgagor and Mortgagee agree that (a) this Mortgage shall constitute a "security agreement" for purposes of Section 552(b) of the Bankruptcy Code, (b) the security interest created by this Mortgage extends to property of Mortgagor acquired before the commencement of a bankruptcy case (including any case under the Bankruptcy Code) and to all amounts paid as Rents and (c) such security interest shall extend to all Rents acquired by the estate after the commencement of any bankruptcy case (including any case under the Bankruptcy Code).

15. Additional Rights.

(a) The holder of any subordinate lien on the Mortgaged Property shall have no right to terminate any Lease whether or not such Lease is subordinate to this Mortgage nor shall any holder of any subordinate lien or subordinate mortgage join any tenant under any Lease in any non-judicial sale or action to foreclose the lien or modify, interfere with, disturb or terminate the rights of any tenant under any Lease. By recordation of this Mortgage all subordinate lienholders under subordinate mortgages are subject to and notified of this provision, and any action taken by any such lienholder or mortgagee contrary to this provision shall be null and void. Upon the occurrence of and during the continuance of any Event of Default, Mortgagee may without regard to the adequacy of its security under this Mortgage, apply all or any part of any amounts on deposit with Mortgagee under this Mortgage against all or any part of the Obligations. Any such application shall not be construed to cure or waive any Default or Event of Default or invalidate any act taken by Mortgagee on account of such Default or Event of Default.

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16. Notices. All notices, requests, demands and other communications hereunder shall be given in accordance with the provisions of the Indenture.

17. No Oral Modification. This Mortgage may not be amended, supplemented or otherwise modified except in accordance with the provisions of the Indenture. Any agreement made by Mortgagor and Mortgagee after the date of this Mortgage relating to this Mortgage shall be superior to the rights of the holder of any intervening or subordinate mortgage, lien or encumbrance.

18. Partial Invalidity. In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, but each shall be construed as if such invalid, illegal or unenforceable provision had never been included. Notwithstanding anything to the contrary contained in this Mortgage or in any provisions of any of the Transaction Documents, the obligations of Mortgagor and of any other obligor under any Transaction Document shall be subject to the limitation that Mortgagee shall not charge, take or receive, nor shall Mortgagor or any other obligor be obligated to pay to Mortgagee, any amounts constituting interest in excess of the maximum rate permitted by law to be charged by Mortgagee.

19. Mortgagor's Waiver of Rights. To the fullest extent permitted by law, Mortgagor waives the benefit of all laws now existing or that may subsequently be enacted providing for (i) any appraisal before sale of any portion of the Mortgaged Property, (ii) any extension of the time for the enforcement of the collection of the Obligations or the creation or extension of a period of redemption from any sale made in collecting such debt and (iii) exemption of the Mortgaged Property from attachment, levy or sale under execution or exemption from civil process. To the fullest extent Mortgagor may do so under applicable law, Mortgagor agrees that Mortgagor will not at any time insist upon, plead, claim or take the benefit or advantage of any law now or hereafter in force providing for any appraisal, valuation, stay, exemption, extension or redemption, or requiring foreclosure of this Mortgage before exercising any other remedy granted hereunder and Mortgagor, for Mortgagor and its successors and assigns, and for any and all persons ever claiming any interest in the Mortgaged Property, to the extent permitted by law and except as otherwise provided herein or in the other Transaction Documents, hereby waives and releases all rights of redemption, valuation, appraisal, stay of execution, notice of election to mature or declare due the whole of the secured indebtedness and marshalling in the event of exercise by Mortgagee of the rights hereby created.

20. Remedies Not Exclusive. Mortgagee shall be entitled to enforce payment and performance of the Obligations and to exercise all rights and powers under this Mortgage or under any of the other Transaction Documents or any laws now or hereafter in force, notwithstanding some or all of the Obligations may now or hereafter be otherwise secured, whether by deed of trust, mortgage, security agreement, pledge, lien, assignment or

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otherwise. Neither the acceptance of this Mortgage nor its enforcement, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee in connection with the Obligations, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other security now or hereafter held by Mortgagee in connection with the Obligations in such order and manner as Mortgagee may determine in its absolute discretion. No remedy herein conferred upon or reserved to Mortgagee is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. To the extent permitted by applicable law, every power or remedy given by any of the Transaction Documents to Mortgagee or to which it may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Mortgagee. In no event shall Mortgagee, in the exercise of the remedies provided in this Mortgage (including, without limitation, in connection with the assignment of Rents to Mortgagee, or the appointment of a receiver and the entry of such receiver on to all or any part of the Mortgaged Property), be deemed a "mortgagee in possession," and Mortgagee shall not in any way be made liable for any act, either of commission or omission, in connection with the exercise of such remedies except gross negligence or willful misconduct after Mortgagee takes possession or title.

21. Multiple Security. If (a) the Premises shall consist of one or more parcels, whether or not contiguous and whether or not located in the same county, or (b) in addition to this Mortgage, Mortgagee shall now or hereafter hold or be the mortgagee under one or more additional mortgages, liens, or other security (directly or indirectly) for the Obligations upon other property in the State in which the Premises are located (whether or not such property is owned by Mortgagor or by others) or (c) both the circumstances described in clauses (a) and (b) shall be true, then to the fullest extent permitted by law, Mortgagee may, at its election, commence or consolidate in a single foreclosure action all foreclosure proceedings against all such collateral securing the Obligations (including the Mortgaged Property), which action may be brought or consolidated in the courts of, or sale conducted in, any county in which any of such collateral is located. Mortgagor acknowledges that the right to maintain a consolidated foreclosure action is a specific inducement to Mortgagee to extend the indebtedness evidenced by the Indenture, and to the extent permitted by applicable law Mortgagor expressly and irrevocably waives any objections to the commencement or consolidation of the foreclosure proceedings in a single action and any objections to the laying of venue or based on the grounds of forum non conveniens which it may now or hereafter have. Mortgagor further agrees that if Mortgagee shall be prosecuting one or more foreclosure or other proceedings against a portion of the Mortgaged Property or against any collateral other than the Mortgaged Property, which collateral directly or indirectly secures the Obligations, or if Mortgagee shall have obtained a judgment of foreclosure and sale or similar judgment against such collateral, then, whether or not such proceedings are being maintained or judgments were obtained in or outside the State in

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which the Premises are located, to the extent permitted by applicable law, Mortgagee may commence or continue any non-judicial sale or foreclosure proceedings and exercise its other remedies granted in this Mortgage against all or any part of the Mortgaged Property and Mortgagor waives any objections to the commencement or continuation of a foreclosure of this Mortgage or exercise of any other remedies hereunder based on such other proceedings or judgments, and waives any right to seek to dismiss, stay, remove, transfer or consolidate either any action under this Mortgage or such other proceedings on such basis. To the extent permitted by applicable law, neither the commencement nor continuation of proceedings to foreclose this Mortgage nor the exercise of any other rights hereunder nor the recovery of any judgment by Mortgagee or the occurrence of any sale by Mortgagee in any such proceedings shall prejudice, limit or preclude Mortgagee's right to commence or continue a foreclosure or other proceeding or obtain a judgment against any other collateral (either in or outside the State in which the Premises are located) which directly or indirectly secures the Obligations, and Mortgagor expressly waives, to the extent permitted under applicable law, any objections to the commencement of, continuation of, or entry of a judgment in such other proceedings or exercise of any remedies in such proceedings based upon any action or judgment connected to this Mortgage, and Mortgagor also waives any right to seek to dismiss, stay, remove, transfer or consolidate either such other proceedings or any action under this Mortgage on such basis. It is expressly understood and agreed that to the fullest extent permitted by law, Mortgagee may, at its election, cause the sale of all collateral which is the subject of a single foreclosure action at either a single sale or at multiple sales conducted simultaneously and take such other measures as are appropriate in order to effect the agreement of the parties to dispose of and administer all collateral securing the Obligations (directly or indirectly).

22. Successors and Assigns. All covenants of Mortgagor contained in this Mortgage are imposed solely and exclusively for the benefit of Mortgagee and its successors and assigns, and no other person or entity shall have standing to require compliance with such covenants or be deemed, under any circumstances, to be a beneficiary of such covenants, any or all of which may be freely waived in whole or in part by Mortgagee at any time. Until this Mortgage is released, all such covenants of Mortgagor shall run with the land and bind Mortgagor, the successors and assigns of Mortgagor (and each of them) and all subsequent owners, encumbrancers and tenants of the Mortgaged Property, and shall inure to the benefit of Mortgagee and its successors and assigns. The word "Mortgagor" shall be construed as if it read "Mortgagors" whenever the sense of this Mortgage so requires and if there shall be more than one Mortgagor, the obligations of the Mortgagors shall be joint and several.

23. No Waivers, etc. Any failure by Mortgagee to insist upon the strict performance by Mortgagor of any of the terms and provisions of this Mortgage shall not be deemed to be a waiver of any of the terms and provisions hereof, and Mortgagee, notwithstanding any such failure, shall have the right thereafter to insist upon the strict

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performance by Mortgagor of any and all of the terms and provisions of this Mortgage to be performed by Mortgagor. Mortgagee may release, regardless of consideration and without the necessity for any notice to or consent by the mortgagee under any subordinate mortgage or any other holder of a subordinate lien on the Mortgaged Property, any part of the security held for the obligations secured by this Mortgage without, as to the remainder of the security, in any way impairing or affecting this Mortgage or the priority of this Mortgage over any subordinate lien or mortgage.

24. Governing Law, etc. This Mortgage shall be governed by and construed in accordance with the laws of the State in which the Premises are located, and applicable United States Federal Law.

25. Certain Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "Mortgagor" shall mean "each Mortgagor or any subsequent owner or owners of the Mortgaged Property or any part thereof or interest therein," the word "Mortgagee" shall mean "Mortgagee or any successor Indenture Trustee under the Indenture, the word "person" shall include any individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity, and the words "Mortgaged Property" shall include any portion of the Mortgaged Property or interest therein. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. The captions in this Mortgage are for convenience or reference only and in no way limit or amplify the provisions hereof.

26. Intentionally Deleted.

27. Last Dollars Secured; Priority. To the extent that this Mortgage secures only a portion of the indebtedness owing or which may become owing by Mortgagor, the parties agree that any payments or repayments of such indebtedness shall be and be deemed to be applied first to the portion of the indebtedness that is not secured hereby, it being the parties' intent that the portion of the indebtedness last remaining unpaid shall be secured hereby.

28. Indenture Trustee. The actions of Mortgagee hereunder are subject to the provisions of the Indenture. Mortgagee shall have the right hereunder to make demands, to give notices, to exercise or refrain from exercising any rights, to take or refrain from taking action (including, without limitation, the release or substitution of Mortgaged Property), and shall be entitled to all the protections, exculpations, immunities and standard of care, in each case in accordance with this Mortgage and the Indenture.

29. Attorney-in-Fact. Mortgagor hereby irrevocably appoints Mortgagee as its attorney-in-fact, which agency is coupled with an interest and with full power of substitution,

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with full authority in the place and stead of Mortgagor and in the name of Mortgagor or otherwise (a) after the occurrence and during the continuance of any Event of Default, to execute and/or record any notices of completion, cessation of labor or any other notices that Mortgagee reasonably deems appropriate to protect Mortgagor's or Mortgagee's interest, if Mortgagor shall fail to do so within 10 days after written request by Mortgagee, (b) upon the issuance of a deed pursuant to the foreclosure of this Mortgage, to execute all instruments of assignment, conveyance or further assurance with respect to the Mortgaged Property or any portion thereof in favor of the grantee of any such deed and as may be appropriate for such purpose, (c) to prepare and file or record financing statements and continuation statements, and to prepare, execute and file or record applications for registration and like papers necessary to create, perfect or preserve Mortgagee's lien on and security interests and rights in or to any of the Mortgaged Property, and (d) after the occurrence and during the continuance of any Event of Default, to exercise Mortgagee's rights under Section 8 hereof.

30. Waiver of Jury Trial. EACH OF THE PARTIES HERETO WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE OR THE TRANSACTIONS CONTEMPLATED HEREBY.

31. State-Specific Provisions. The provisions are set forth on Exhibit B as attached hereto and made a part of this Mortgage.

[signature pages follows]

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Schedule A

Description of the Fee-Owned Land

All of those lots or parcels of land located in Cook County, Illinois, and more particularly described as follows:

PARCEL 1:

ALL THAT CERTAIN TRACT OF LAND SITUATED IN THE WEST 1/2 OF FRACTIONAL SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SECTION 30; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SECTION 30 SAID LINE ALSO BEING THE DIVISION LINE BETWEEN DUPAGE COUNTY AND COOK COUNTY, A DISTANCE OF 1,051.81 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THAT CERTAIN EASEMENT CONVEYED BY THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY TO THE COMMONWEALTH EDISON COMPANY BY EASEMENT DEED DATED JANUARY 16, 1957 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS AS DOCUMENT 16827903, ON FEBRUARY 18, 1957 IN BOOK 52875 ON PAGES 192-195; THENCE NORTH 70 DEGREES 11 MINUTES 30 SECONDS EAST ALONG SAID SOUTHERLY RIGHT OF WAY OF SAID EASEMENT, A DISTANCE OF 308.80 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG A LINE PARALLEL WITH AND 60 FEET EAST OF (MEASURED AT RIGHT ANGLES) THE EAST RIGHT OF WAY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY A DISTANCE OF 1,147.84 FEET TO A POINT; THENCE CONTINUING ALONG THE LAST MENTIONED COURSE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 2,500 FEET TO A POINT BEING THE SOUTHWEST CORNER OF A CERTAIN PARCEL OF LAND CONVEYED TO THE KROGER COMPANY BY THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY BY DEED DATED ON FEBRUARY 26, 1960 FOR A PLACE OF BEGINNING; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID PARCEL CONVEYED TO THE KROGER COMPANY, A DISTANCE OF 911.99 FEET TO A POINT 94 FEET WEST OF THE SOUTHEAST CORNER THEREOF; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG A LINE DRAWN PERPENDICULAR TO SAID SOUTH LINE, A DISTANCE OF 40 FEET TO A POINT; THENCE SOUTH 15 DEGREES 00 MINUTES 00 SECONDS EAST, A DISTANCE OF 346.50 FEET TO A POINT 150 FEET WESTERLY OF (AS MEASURED PERPENDICULAR TO) THE CENTER LINE OF YARD TRACK NUMBER 834 AS NOW EXISTING OF THE CHICAGO AND NORTHWESTERN RAILWAYS PROVISO YARD; THENCE SOUTH 04 DEGREES 16 MINUTES 49 SECONDS WEST ALONG A

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LINE PARALLEL WITH AND 150 FEET WESTERLY OF (AS MEASURED PERPENDICULAR TO) SAID CENTER LINE OF YARD NUMBER 834, A DISTANCE OF 434.57 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST, A DISTANCE OF 957.88 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF ACCESS ROAD "C", SAID POINT ALSO BEING 60 FEET EASTERLY OF (MEASURED PERPENDICULAR TO) THE EASTERLY RIGHT OF WAY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY; THENCE NORTHERLY ALONG SAID EASTERLY RIGHT OF WAY LINE OF ACCESS ROAD "C", ALSO BEING A LINE 60 FEET EASTERLY OF (AS MEASURED PERPENDICULAR TO) THE EASTERLY RIGHT OF WAY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY, BEING A CURVE CONVEX WESTERLY AND HAVING A RADIUS OF 7,597.44 FEET, A DISTANCE OF 415.42 FEET TO A POINT OF TANGENCY; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID EASTERLY RIGHT OF WAY LINE OF ACCESS ROAD "C", A DISTANCE OF 392.84 FEET TO A PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE NORTH 12 FEET (AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE) OF THE NORTHERLY 330 FEET OF THE FOLLOWING DESCRIBED TRACT OF LAND IN THE SOUTHWEST 1/4 OF FRACTIONAL SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID FRACTIONAL SECTION 31, THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF THE SOUTHWEST 1/4 OF SAID FRACTIONAL SECTION 31, A DISTANCE OF 99.65 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF STATE BOND ISSUE ROUTE 64 (COMMONLY KNOWN AS NORTH AVENUE) THENCE NORTH 88 DEGREES 20 MINUTES 15 SECONDS EAST ALONG SAID NORTH RIGHT OF WAY LINE OF STATE BOND ISSUE ROUTE 64, A DISTANCE OF 555.85 FEET TO THE SOUTHWEST CORNER OF A CERTAIN PARCEL OF LAND CONVEYED TO BURNY BROTHERS, INC., BY THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY BY DEED DATED APRIL 1, 1960; THENCE NORTHERLY ALONG THE WESTERLY LINE OF SAID BURNY BROTHERS, INC. PROPERTY, SAID LINE ALSO BEING THE EASTERLY LINE OF ACCESS ROAD "C", THE FOLLOWING 5 COURSES AND DISTANCES; NORTH 00 DEGREES 03 MINUTES 45 SECONDS EAST, A DISTANCE OF 43.52 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE CONVEX NORTHEASTERLY AND HAVING A RADIUS OF 192 FEET, A DISTANCE OF 143.73 FEET TO A POINT OF TANGENCY; THENCE NORTH 42 DEGREES 49 MINUTES 45 SECONDS WEST, A DISTANCE OF 115.47 FEET TO A POINT OF CURVATURE; THENCE NORTHWESTERLY ALONG A CURVE CONVEX SOUTHWESTERLY AND HAVING A RADIUS OF 188 FEET, A DISTANCE OF 138.66 FEET TO A POINT OF

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TANGENCY; THENCE NORTH 00 DEGREES 34 MINUTES 15 SECONDS WEST, A DISTANCE OF 206.35 FEET TO THE NORTHWEST CORNER OF SAID BURNBY BROTHERS, INC. PROPERTY FOR A PLACE OF BEGINNING; THENCE NORTHERLY ALONG THE EASTERLY LINE OF ACCESS ROAD "C" THE FOLLOWING 4 COURSES AND DISTANCES; THENCE NORTH 00 DEGREES 34 MINUTES 15 SECONDS WEST, A DISTANCE OF 563.37 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONVEX EASTERLY AND HAVING A RADIUS OF 7,542 FEET, A DISTANCE OF 485.94 FEET TO A POINT OF TANGENCY; THENCE NORTH 4 DEGREES 15 MINUTES 45 SECONDS WEST, A DISTANCE OF 94.32 FEET TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE CONVEX WESTERLY AND HAVING A RADIUS OF 7,597.44 FEET, A DISTANCE OF 149.79 FEET TO THE SOUTHWEST CORNER OF A PARCEL OF LAND CONVEYED TO RADIO STEEL MANUFACTURING COMPANY, BY THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY BY A DEED DATED JANUARY 24, 1962; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID RADIO STEEL MANUFACTURING COMPANY PROPERTY, A DISTANCE OF 957.88 FEET TO THE SOUTHEAST CORNER OF SAID RADIO STEEL MANUFACTURING COMPANY PROPERTY, SAID CORNER ALSO BEING A POINT 150 FEET WESTERLY OF (AS MEASURED PERPENDICULAR TO) THE CENTER LINE OF YARD TRACK NUMBER 834 AS NOW EXISTING OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY'S PROVISO YARD; THENCE SOUTH 04 DEGREES 16 MINUTES 49 SECONDS WEST ALONG A LINE PARALLEL WITH AND 150 FEET WESTERLY OF (AS MEASURED PERPENDICULAR TO) SAID CENTER LINE OF YARD TRACK NUMBER 834, A DISTANCE OF 1,272.05 FEET TO A POINT ON THE NORTH LINE OF SAID BURNBY BROTHERS, INC. PROPERTY; THENCE SOUTH 88 DEGREES 20 MINUTES 15 SECONDS WEST ALONG THE NORTH LINE OF SAID BURNBY BROTHERS, INC. PROPERTY, A DISTANCE OF 820.52 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

THAT PART OF A CERTAIN TRACT OF LAND SITUATED IN THE WEST 1/2 OF FRACTIONAL SECTION 31, TOWNSHIP 40 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING MORE FULLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SECTION 30, TOWNSHIP 40 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE WEST LINE OF SAID SECTION 30 (SAID LINE ALSO BEING THE DIVISION LINE BETWEEN DUPAGE AND COOK COUNTIES) A DISTANCE OF 1051.81 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF THAT CERTAIN EASEMENT CONVEYED BY THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY TO THE COMMONWEALTH EDISON COMPANY BY EASEMENT DEED DATED

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JANUARY 16, 1957 AND RECORDED IN THE OFFICE OF THE RECORDER OF DEEDS IN AND FOR COOK COUNTY, ILLINOIS AS DOCUMENT 16827903 ON FEBRUARY 18, 1957 IN BOOK 52875 ON PAGES 192-195; THENCE NORTH 70 DEGREES 11 MINUTES 30 SECONDS EAST, ALONG SAID SOUTHERLY RIGHT OF WAY OF SAID EASEMENT, A DISTANCE OF 338.80 FEET TO A POINT; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG A LINE PARALLEL WITH AND 60 FEET EAST OF (MEASURED AT-RIGHT ANGLES) THE EAST RIGHT OF WAY LINE OF THE NORTHERN ILLINOIS TOLL HIGHWAY, A DISTANCE OF 1147.84 FEET TO A POINT; THENCE CONTINUING SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST ALONG THE LAST MENTIONED COURSE, A DISTANCE OF 2500.00 FEET TO A POINT BEING THE SOUTHWEST CORNER OF A CERTAIN PARCEL OF LAND CONVEYED TO THE KROGER COMPANY BY THE CHICAGO NORTHWESTERN RAILWAY COMPANY BY DEED DATED FEBRUARY 26, 1960; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG THE SOUTH LINE OF SAID PARCEL CONVEYED TO THE KROGER COMPANY, A DISTANCE OF 911.99 FEET TO A POINT 94.0 FEET WEST OF THE SOUTHEAST CORNER OF SAID PARCEL CONVEYED TO THE KROGER COMPANY, SAID POINT ALSO BEING THE PLACE OF BEGINNING OF THE PROPERTY TO BE DESCRIBED HEREIN; THENCE CONTINUING SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST ALONG SAID SOUTH LINE, A DISTANCE OF 92 FEET; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST AT RIGHT ANGLES TO SAID SOUTH LINE, A DISTANCE OF 150.0 FEET; THENCE NORTH 90 DEGREES 00 MINUTES 00 SECONDS WEST AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, A DISTANCE OF 59.99 FEET; THENCE NORTH 14 DEGREES 56 MINUTES 10 SECONDS WEST, 124.20 FEET; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, 40.0 FEET TO THE PLACE OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

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Exhibit B

1. Principles of Construction. In the event of any inconsistencies between the terms and conditions of this Exhibit B and the other terms and conditions of this Mortgage, the terms and conditions of this Exhibit B shall control and be binding.
2. Use of Proceeds. Mortgagor hereby covenants, represents and agrees that all of the proceeds of the Indenture secured by this Mortgage will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire liabilities and obligations evidenced by the Security Documents and secured by this Mortgage: (a) constitute a business loan which comes within the purview of 815 ILCS 205/4 as amended; (b) constitute "a loan secured by a mortgage on real estate," within the purview and operation of 815 ILCS 205/4(1)(l); and (c) is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C., §1601 et seq.
3. Power of Sale. Each of the remedies set forth herein, including without limitation the remedies involving a power of sale on the part of the Mortgagee and the right of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, shall be exercisable if, and to the extent, permitted by the Laws of the State of Illinois in force at the time of the exercise of such remedies without regard to the enforceability of such remedies at the time of the execution and delivery of this Mortgage.
4. Maximum Principal Indebtedness. Notwithstanding any provision contained herein to the contrary, the liabilities and obligations secured by this Mortgage shall not exceed an amount equal to 200% of the outstanding Notes issued pursuant to the Indenture.
5. Future Advances. This Mortgage is given for the purpose of securing loan advances which the Mortgagee may make to or for Mortgagor pursuant and subject to the terms and provisions of the Security Documents. The parties hereto intend that, in addition to any other debt or obligation secured hereby, this Mortgage shall secure unpaid balances of loan advances made after this Mortgage is delivered to the Office of the Recorder of Cook County, Illinois, whether made pursuant to an obligation of Mortgagee or otherwise, provided that such advances are within (20) years from the date hereof and in such event, such advances shall be secured to the same extent as if such future advances were made on the date hereof, although there may be no advance made at the time of execution hereof and although there may be no indebtedness outstanding at the time any advance is made. Such loan advances may or may not be evidenced by notes executed pursuant to the Security Documents.

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6. Illinois Mortgage Foreclosure Law.

- a. In the event any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS Sections 5/15-1101 et seq., Illinois Compiled Statutes) (the “**Foreclosure Act**”), the provisions of the Foreclosure Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Act.
- b. If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Act to the full extent permitted by law.
- c. Without limiting the generality of the foregoing, all expenses incurred by the Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Foreclosure Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.
- d. In addition to any provision of this Mortgage authorizing Mortgagee to take or be placed in possession of the Real Estate, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Foreclosure Act, to be placed in the possession of the Real Estate 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 Mortgage, all rights, powers, immunities, and duties and provisions for in Sections 15-1701 and 15-1703 of the Foreclosure Act.

7. Collateral Protection Act. Pursuant to the terms of the Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified that unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor’s expense to protect Mortgagee’s interests in the Real Estate, which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Mortgagee may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the Real Estate. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has

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obtained the insurance as required hereunder. If Mortgagee purchases insurance for the Real Estate, the Mortgagor will be responsible for the costs of such insurance, including interest and any other charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Mortgagor may be able to obtain for itself.

8. Protective Advances. All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings authorized by this Mortgage or by the Foreclosure Act (collectively, "**Protective Advances**"), shall have the benefit of all applicable provisions of the Foreclosure Act. All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after an Event of Default under the terms of the Notes. This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(1) of Section 5/15-1302 of the Foreclosure Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Foreclosure Act, apply to and be included in:

- a. determination of the amount of indebtedness secured by this Mortgage at any time;
- b. the right of redemption has not been waived by the Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Foreclosure Act;
- c. if right of redemption has not been waived by the Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Foreclosure Act;
- d. determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Foreclosure Act;
- e. application of income in the hands of any receiver or Mortgagee in possession; and

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- f. compulsion of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Foreclosure Act.
9. Waiver of Rights of Redemption and Reinstatement. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of Mortgagee under this Mortgage, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Real Estate or the Obligations. Mortgagor for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any and all right to have the property and estates comprising the Real Estate, or any part thereof, marshaled upon any foreclosure or other disposition (whether or not the entire Real Estate be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Real Estate, or any part thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Mortgage may order the Real Estate sold as an entirety. On behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Real Estate described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the maximum extent permitted by applicable law, Mortgagor hereby waives any and all rights (x) of redemption from any foreclosure, or other disposition of any kind or nature of the Real Estate, or any part thereof, or interest therein, under or pursuant to rights herein granted to Mortgagee, and (y) to reinstatement of the indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to 735 ILCS 5/15-1602. Mortgagor further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by Mortgagee under the Notes, this Mortgage, or any of the other Security Documents, (b) all benefits that might accrue to the Mortgagor by virtue of any present or future laws exempting the Real Estate, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale under civil process, or extension, exemption from civil process, or extension of time for payment, and (c) all notices not specifically required by this Mortgage of default, or of Mortgagee's exercise, or election to exercise, any option under this Mortgage. All waivers by Mortgagor in this Mortgage have been made voluntarily, intelligently and knowingly by Mortgagor after Mortgagor has been afforded an opportunity to be informed by counsel of Mortgagor's choice as to possible alternative rights. Mortgagor's execution of this

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Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

10. Fixture Filing. THIS MORTGAGE IS EFFECTIVE AND SHALL BE EFFECTIVE AS A FINANCING STATEMENT FILED AS A FIXTURE FILING WITH RESPECT TO ALL GOODS WHICH ARE OR ARE TO BECOME FIXTURES INCLUDED WITHIN THE REAL ESTATE AND IS TO BE FILED FOR RECORD OR REGISTERED IN THE REAL ESTATE RECORDS OF THE COUNTY IN WHICH THE REAL ESTATE IS LOCATED. THE ADDRESS OF MORTGAGEE AND THE MAILING ADDRESS OF MORTGAGOR ARE SET FORTH WITHIN. A PHOTOGRAPHIC OR OTHER REPRODUCTION OF THIS MORTGAGE OR ANY FINANCING STATEMENT RELATING TO THIS MORTGAGE SHALL BE SUFFICIENT AS A FINANCING STATEMENT.

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