



Doc# 2335534006 Fee \$113.00

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

KAREN A. YARBROUGH

COOK COUNTY CLERK

DATE: 12/21/2023 10:26 AM PG: 1 OF 32

Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud  
844-768-1713

23000030885 2/4

The property identified as: PIN: 17-04-315-007-0000

Address:

Street: 901 and 904 N. Halsted Street

Street line 2:

City: Chicago

State: IL

ZIP Code: 60642

Lender: OTÉRA CAPITAL INVESTMENTS XIV INC.

Borrower: ONNI HALSTED STREET CHICAGO LLC

Loan / Mortgage Amount: \$50,000,000.00

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

Certificate number: 5C6D81D3-A605-4FF5-8AD9-14C8521CCC9E

Execution date: 12/20/2023

Property of Cook County Clerk's Office

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RECORDING REQUESTED BY AND  
UPON RECORDATION RETURN TO:

Hunton Andrews Kurth LLP  
200 Park Avenue, 52<sup>nd</sup> Floor  
New York, New York 10166  
Attention: Matthew A. Scoville, Esq.

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**ONNI HALSTED STREET CHICAGO LLC**, as mortgagor  
(Borrower)

to

**OTÉRA CAPITAL INVESTMENTS XIV INC.**,

as Agent for one or more lenders, as mortgagee  
(Agent)

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

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Dated as of: December 20, 2023

Location: 901 and 904 N Halsted Street  
Chicago, Illinois 60642

County: Cook County

PIN: 17-04-315-007-0000, 17-04-315-008-0000, 17-04-  
328-006-0000, 17-05-410-004-000, 17-05-410-005-  
000, 17-05-410-006-000, 17-05-410-007-000 and  
17-05-410-008-000

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

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*") is made as of this 20th day of December, 2023, by **ONNI HALSTED STREET CHICAGO LLC**, a Delaware limited liability company, having an address at 200 – 1010 Seymour Street, Vancouver, BC V6B 3M6, Canada (together with its permitted successors and permitted assigns, "*Borrower*"), as mortgagor, for the benefit of **OTÉRA CAPITAL INVESTMENTS XIV INC.**, a Quebec corporation, having an address c/o Otéra Capital Inc., 1001 Square Victoria, Suite C-200, Montreal, Quebec, H2Z 2B1, as administrative and collateral agent under the Loan Agreement (as defined below) (together with its successors and/or assigns, "*Agent*"), for the benefit of the lenders party thereto (together with their successors and/or assigns, collectively, "*Lenders*" and individually, each a "*Lender*") as mortgagee.

### WITNESSETH:

WHEREAS, this Mortgage is given to secure a loan (the "*Loan*") in the maximum principal sum of up to FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof among Borrower, Lenders and Agent (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "*Loan Agreement*"). The Loan is evidenced by that certain Promissory Note Secured by Mortgage, dated of even date herewith, made by Borrower in favor of Lender, in the maximum principal amount of up to FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000.00) (as the same may be amended, restated, supplemented and/or modified from time to time, the "*Note*").

WHEREAS, Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement), all Additional Interest and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents. "*Additional Interest*" shall mean all interest, fees (including the Return Differential, any servicing fee under the Servicing Agreement, and any fees due and payable in connection with the extension of the term of the Loan pursuant to the Loan Agreement), costs and expenses (including reasonable attorneys' fees and expenses), all Transfer Taxes (as defined herein), and other charges and fees for which Borrower is obligated to Agent and Lender pursuant to this Mortgage, the Loan Agreement, the other Loan Documents (as defined herein); and

WHEREAS, this Mortgage is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage (the Loan Agreement, the Note, this Mortgage, and all other documents evidencing or securing the Debt or delivered in connection with the making of the Loan are hereinafter referred to collectively as the "*Loan Documents*").

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NOW THEREFORE, in consideration of the making of the Loan by Lenders and the covenants, agreements, representations and warranties set forth in this Mortgage:

## Article 1 -

### GRANTS OF SECURITY

Section 1.1 PROPERTY MORTGAGED. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Agent on behalf of Lenders, and grant a security interest to Agent on behalf of Lenders all rights, interests and estates now owned, or hereafter acquired by Borrower in and to the following property (collectively, the "**Property**"):

(a) Land. The real property described in Exhibit A attached hereto and made a part hereof (the "**Land**");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Borrower for use in connection with the Land and the development of the Land and all additional lands and estates therein which may, from time to time, by supplemental mortgage or otherwise be expressly made subject to the lien of this Mortgage;

(c) Improvements. The buildings, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements now or hereafter erected or located on the Land (collectively, the "**Improvements**");

(d) Appurtenances. All (i) air, light lateral support and development rights now or hereafter pertaining to or used in connection with the Land; (ii) and singular, the tenements, hereditaments, rights of way, easements, appendages and appurtenances and property now or hereafter belonging or in any way appertaining to the Land; and (iii) estate, right, title, claim or demand whatsoever, either at law or in equity, in possession or expectancy, of, in and to the Land (collectively, the "**Appurtenances**");

(e) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, excess or unused zoning floor area development rights, abatements, zoning floor area bonuses, zoning incentives or awards (including, without limitation, designation or availability of additional zoning floor area), and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, appurtenant to, relating or pertaining to the Land and the Improvements or otherwise owned by or available to Borrower and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(f) Equipment. All "equipment," as such term is defined in Article 9 of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Borrower, which

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is used at or in connection with the Improvements, the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Borrower and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "**Equipment**"). Notwithstanding the foregoing, Equipment shall not include any property belonging to tenants under leases except to the extent that Borrower shall have any right or interest therein;

(g) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Borrower which is so related to the Land or the Improvements forming part of the Property that it is deemed fixtures or real property under the law of the particular state in which the Equipment is located, including, without limitation, all building or construction materials intended for construction, reconstruction, alteration or repair of or installation on the Property, construction equipment, appliances, machinery, plant equipment, fittings, apparatuses, fixtures and other items now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Improvements or the Land, including, but not limited to, engines, devices for the operation of pumps, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatuses and equipment, heating, ventilating, plumbing, laundry, incinerating, electrical, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, pollution control equipment, security systems, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities, utility lines and equipment (whether owned individually or jointly with others, and, if owned jointly, to the extent of Borrower's interest therein) and all other utilities whether or not situated in easements, all water tanks, water supply, water power sites, fuel stations, fuel tanks, fuel supply, and all other structures, together with all accessions, appurtenances, additions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof (collectively, the "**Fixtures**"). Notwithstanding the foregoing, "Fixtures" shall not include any property which tenants are entitled to remove pursuant to leases except to the extent that Borrower shall have any right or interest (reversionary or otherwise) therein;

(h) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights (including without limitation the Construction Contracts), the Plans and Specifications, the Governmental Approvals (to the extent permitted by applicable law), accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code as hereinafter defined), other than Fixtures, which are now or hereafter owned by Borrower and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State of Illinois (the "**Uniform Commercial Code**"), superior in lien to the lien of this Mortgage and all proceeds and products of the above;

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(i) Leases and Rents. All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land or the Improvements, and every modification, amendment or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Borrower of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the “**Bankruptcy Code**”) (collectively, the “**Leases**”) and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, cash, letters of credit or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, security, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Property, including, all receivables, customer obligations, installment payment obligations and other obligations now existing or hereafter arising or created out of the sale, lease, sublease, license, concession or other grant of the right of the use and occupancy of property or rendering of services by Borrower or Manager whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the “**Rents**”) and all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment of the Debt;

(j) Condemnation Awards. All awards or payments, including interest thereon, which may heretofore and hereafter be made with respect to the Property, whether from the exercise of the right of eminent domain (including but not limited to any transfer made in lieu of or in anticipation of the exercise of the right), or for a change of grade, or for any other injury to or decrease in the value of the Property;

(k) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property (including proceeds from any business interruption or other loss of income insurance), including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

(l) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in real estate taxes and assessments charged against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction;

(m) Rights. Subject to Borrower’s contests rights in accordance with Sections 4.1.3, 4.1.4(b) and 4.2.1 of the Loan Agreement, the right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lenders in the Property;



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(n) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Borrower therein and thereunder, including, without limitation, the right, upon the occurrence and continuance of an Event of Default, to receive and collect any sums payable to Borrower thereunder;

(o) Trademarks. All tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property;

(p) Accounts. All reserves, escrows and deposit accounts maintained by Borrower with respect to the Property, including, without limitation, all accounts established or maintained pursuant to the Loan Agreement; together with all deposits or wire transfers made to such accounts and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(q) Uniform Commercial Code Property. All documents, instruments, chattel paper and intangibles, as the foregoing terms are defined in the Uniform Commercial Code, and general intangibles relating to the Property;

(r) Minerals; Vegetation. All minerals, crops, timber, trees, shrubs, flowers and landscaping features now or hereafter located on, under, or above the Land;

(s) Proceeds. All proceeds of any of the foregoing, including, without limitation, proceeds of insurance and condemnation awards, whether cash, liquidation or other claims or otherwise; and

(t) Other Rights. Any and all other rights of Borrower in and to the items set forth in Subsections (a) through (s) above.

AND without limiting any of the other provisions of this Mortgage, to the extent permitted by applicable law, Borrower expressly grants to Agent on behalf of Lenders, as secured party, a security interest in the portion of the Property that constitutes personal property under the laws of the State of Illinois, including, without limitations, such personal property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "**Real Property**") appropriated to the use thereof and, whether affixed or annexed to the Real Property or not, shall for the purposes of this Mortgage be deemed conclusively to be real estate and mortgaged hereby.

Section 1.2 ASSIGNMENT OF RENTS. Borrower has absolutely and unconditionally assigns to Agent on behalf of Lenders all of Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a

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present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of Section 7.1(h) of this Mortgage and the Assignment of Leases, Agent grants to Borrower a revocable license to collect, receive, use and enjoy the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.3 SECURITY AGREEMENT. This Mortgage is both a real property mortgage and a “security agreement” within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Mortgage, Borrower hereby grants to Agent on behalf of Lenders, as security for the Obligations (hereinafter defined), a security interest in the Fixtures, the Equipment, the Personal Property and other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property constituting personal property under the laws of the State of Illinois, including such property that may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the “Collateral”). If an Event of Default shall occur and be continuing, Agent, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Agent may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Agent after the occurrence and during the continuance of an Event of Default, Borrower shall, at its expense, assemble the Collateral and make it available to Agent at a convenient place (at the Land if tangible property) reasonably acceptable to Agent. Borrower shall pay to Agent, within ten (10) Business Days of demand, any and all expenses, including reasonable legal expenses and attorneys’ fees, incurred or paid by Agent in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default; provided, however, that Borrower shall not be required to pay such enforcement costs if Lender was not the prevailing party in the action and a court of competent jurisdiction rules that Lender’s action was brought by Lender in bad faith. Any notice of sale, disposition or other intended action by Agent with respect to the Collateral sent to Borrower in accordance with the provisions hereof at least ten (10) Business Days prior to such action, shall, except as otherwise provided by applicable law, constitute reasonable notice to Borrower. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Agent to the payment of the Debt in such priority and proportions as Agent in its discretion shall deem proper. The principal place of business of Borrower (Debtor) is as set forth on page one hereof and the address of Agent (Secured Party) is as set forth on page one hereof.

Section 1.4 FIXTURE FILING. Certain of the Property is or will become “fixtures” (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Mortgage, and this Mortgage, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement naming Borrower as Debtor and Agent as Secured Party filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. As to all of the above described Property which is or which hereafter becomes a



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“fixture” under applicable law, this Mortgage constitutes a fixture filing under the Uniform Commercial Code. This Mortgage creates a security interest in the Collateral, and, to the extent the Collateral is not real property, this Mortgage constitutes a security agreement from Borrower to Agent under the Uniform Commercial Code.

Name of Debtor: ONNI HALSTED STREET CHICAGO LLC  
 Debtor’s Address: 200 – 1010 Seymour Street, Vancouver, BC V6B 3M6, Canada  
 Debtor’s Jurisdiction of Organization: Delaware  
 Debtor’s Taxpayer I.D. No.: 32-0572978

Name of Secured Party: OTÉRA CAPITAL INVESTMENTS XIV INC.  
 Secured Party’s Address:  
 c/o Otéra Capital Inc., 1001 Square Victoria, Suite C-200, Montreal, Quebec H2Z 2B1  
 Collateral Covered by Financing Statement: As described in Section 1.2  
 Place of Filing: To be filed in the Cook County Clerk’s Office  
 Description of Real Property to which Collateral is Related: See attached Exhibit A  
 Owner of Record of the Real Property is: Debtor

Section 1.5 PLEDGES OF MONIES HELD. Borrower hereby pledges to Agent any and all monies now or hereafter held by Agent or on behalf of Agent in connection with the Loan, including, without limitation, any sums deposited in the Accounts (as defined in the Loan Agreement) and Net Proceeds, as additional security for the Obligations until expended or applied as provided in this Mortgage or the Loan Agreement.

## CONDITIONS TO GRANT

TO HAVE AND TO HOLD the above granted and described Property, subject to the Permitted Encumbrances, unto and to the use and benefit of Agent and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall pay to Agent the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Mortgage, and shall perform the Other Obligations as set forth in this Mortgage, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that Borrower’s obligation to indemnify and hold harmless Agent pursuant to the provisions hereof shall survive any such payment or release.

## Article 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 DEBT. This Mortgage and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt, which by its definition (as set forth in the Loan Agreement) includes, but is not limited to, the obligations of Borrower to pay to Agent the principal and interest owing pursuant to the terms and conditions of the Note.

Section 2.2 OTHER OBLIGATIONS. This Mortgage and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the “*Other Obligations*”):

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- (a) the performance of all other obligations of Borrower contained herein;
- (b) the performance of each obligation of Borrower contained in the Loan Agreement and any other Loan Document; and
- (c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement or any other Loan Document.

Section 2.3 DEBT AND OTHER OBLIGATIONS. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively herein as the "*Obligations*".

## Article 3 -

### BORROWER COVENANTS

Borrower covenants and agrees that:

Section 3.1 PAYMENT OF DEBT. Borrower will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Mortgage.

Section 3.2 INCORPORATION BY REFERENCE. All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note and (c) all and any of the other Loan Documents, are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein. In the event of any conflict between the provisions of the Loan Agreement and the provisions of this Mortgage, the provisions of the Loan Agreement shall control.

Section 3.3 INSURANCE. Borrower shall obtain and maintain, or cause to be maintained, in full force and effect at all times insurance with respect to Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.4 MAINTENANCE OF PROPERTY. Borrower shall cause the Property to be maintained in a condition that complies with Legal Requirements. If any part of the Property shall be affected by any Casualty or any Condemnation, Borrower shall perform such restorative work as may be required to cause the Property to comply with applicable Legal Requirements.

Section 3.5 WASTE. Borrower shall not commit or suffer any physical waste of the Property in a manner which would cause the Property to fail to comply with applicable Legal Requirements, or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or allow the cancellation of any Policy, or do or permit to be done thereon anything that may in any way materially impair the value of the Property or the security of this Mortgage. Borrower will not, without the prior written consent of Agent, permit any drilling or exploration for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

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## Section 3.6 PAYMENT FOR LABOR AND MATERIALS.

(a) Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials ("*Labor and Material Costs*") incurred by or on behalf of Borrower in connection with the Property and not permit to exist beyond the due date thereof in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event not permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof except for the Permitted Encumbrances.

(b) After prior written notice to Agent, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any liens or encumbrances on any part of the Property in accordance with the terms and provisions of Section 4.2.1 of the Loan Agreement.

## Section 3.7 [INTENTIONALLY OMITTED.]

Section 3.8 PERFORMANCE OF OTHER AGREEMENTS. Borrower shall observe and perform each and every term, covenant and provision to be observed or performed by Borrower pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property and any amendments, modifications or changes thereto.

Section 3.9 CHANGE OF NAME, IDENTITY OR STRUCTURE. The provisions of Section 4.2.5 of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

## Article 4 - OBLIGATIONS AND RELIANCES

Section 4.1 RELATIONSHIP OF BORROWER AND AGENT. The relationship between Borrower and Agent is solely that of debtor and creditor, and Agent has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Mortgage and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Agent to be other than that of debtor and creditor.

Section 4.2 NO RELIANCE ON AGENT. The general partners, members, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Agent are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Agent's expertise, business acumen or advice in connection with the Property.

## Section 4.3 NO AGENT OBLIGATIONS.

(a) Notwithstanding the provisions of Subsections 1.1(m) or Section 1.2, Agent is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with

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respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

(b) By accepting or approving anything required to be observed, performed or fulfilled or to be given to Agent pursuant to this Mortgage, the Loan Agreement, the Note or the other Loan Documents, including, without limitation, any officer's certificate, balance sheet, statement of profit and loss or other financial statement, survey, appraisal, or insurance policy, Agent shall not be deemed to have warranted, consented to, or affirmed the sufficiency, the legality or effectiveness of same, and such acceptance or approval thereof shall not constitute any warranty or affirmation with respect thereto by Agent.

Section 4.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Mortgage and the other Loan Documents, Agent is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article III of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Agent; that such reliance existed on the part of Agent prior to the date hereof, that the warranties and representations are a material inducement to Agent in making the Loan; and that Agent would not be willing to make the Loan and accept this Mortgage in the absence of the warranties and representations as set forth in Article III of the Loan Agreement.

## Article 5 -

### FURTHER ASSURANCES

Section 5.1 RECORDING OF MORTGAGE, ETC. Borrower forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Agent in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Mortgage, the other Loan Documents, any note, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any deed of trust or mortgage supplemental hereto, any Mortgage with respect to the Property or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do.

Section 5.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Agent, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignments, transfers and assurances as Agent shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Agent the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and

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transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Agent, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage, or for complying with all Legal Requirements. Borrower, promptly following its receipt of written request from Agent, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Agent to execute in the name of Borrower or without the signature of Borrower to the extent Agent may lawfully do so, one or more financing statements (including, without limitation, initial financing statements and amendments thereto and continuation statements) with or without the signature of Borrower as authorized by applicable law, to evidence more effectively the security interest of Agent in the Property. Borrower also ratifies its authorization for Agent to have filed any like initial financing statements, amendments thereto and continuation statements, if filed prior to the date of this Mortgage. Borrower grants to Agent an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Agent at law and in equity, including without limitation such rights and remedies available to Agent pursuant to this Section 5.2. No action required by Borrower pursuant to this Section 5.2 shall increase the obligations or liabilities, or decrease the rights of Borrower hereunder, except to a de minimis extent. To the extent not prohibited by applicable law, Borrower hereby ratifies all acts Agent has lawfully done in the past or shall lawfully do or cause to be done in the future by virtue of such power of attorney.

## Section 5.3 CHANGES IN TAX DEBT, CREDIT AND DOCUMENTARY STAMP LAWS.

(a) If any law is enacted or adopted or amended after the date of this Mortgage which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax (other than an Excluded Tax), either directly or indirectly, on the Debt or Agent and/or Lenders' interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Agent is advised by its counsel that the payment of tax by Borrower would be unlawful or taxable to Agent or unenforceable or provide the basis for a defense of usury then Agent shall have the option by written notice of not less than one hundred twenty (120) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Agent shall have the option by written notice of not less than one hundred twenty (120) days, to declare the Debt immediately due and payable. Notwithstanding anything to the contrary contained in the Loan Agreement, no Return Differential shall be required in connection with such prepayment.

(c) 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 Note, this Mortgage, or any of the other Loan Documents or impose any other tax or charge on the same, Borrower will pay for the same, with interest and penalties thereon, if any. This Section shall not apply to any Excluded Taxes or any Taxes that are payable pursuant the Loan Agreement.



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Section 5.4 SPLITTING OF MORTGAGE. This Mortgage and the Note shall, at any time until the same shall be fully paid and satisfied, at the sole election of Agent, be split or divided into two or more notes and two or more security instruments, each of which shall cover all or a portion of the Property to be more particularly described therein. To that end, Borrower, upon written request of Agent, shall execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered by the then owner of the Property, to Agent and/or its designee or designees substitute notes and security instruments in accordance with Section 8.1 of the Loan Agreement.

Section 5.5 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Agent as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Document, Borrower will issue, in lieu thereof, a replacement Note or other Loan Document, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Document in the same principal amount thereof and otherwise of like tenor.

Section 5.6 NO OFFSETS OR COUNTERCLAIMS. Borrower represents and warrants as of the date hereof that there are no offsets, counterclaims or defenses against the Debt, this Mortgage or the Note, that Borrower has full power, authority and legal right to execute this Mortgage and to keep and observe all of the terms and provisions of this Mortgage on Borrower's part to be observed or performed and that the Note and this Mortgage constitute valid and binding obligations of Borrower.

## Article 6 -

### DUE ON SALE/ENCUMBRANCE

Section 6.1 AGENT RELIANCE. Borrower acknowledges that Agent has examined and relied on the experience of Borrower and its general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Agent has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations (beyond the expiration of any applicable grace or notice and cure periods), Agent can recover the Debt by a sale of the Property.

Section 6.2 NO TRANSFER. Borrower shall not permit to occur or suffer any Transfer (as defined in the Loan Agreement), unless specifically permitted by Section 4.2.9 of the Loan Agreement or unless Agent shall consent thereto in writing in accordance with Section 4.2.9 of the Loan Agreement.



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## Article 7 -

### RIGHTS AND REMEDIES UPON DEFAULT

Section 7.1 REMEDIES. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Agent may take such action, without notice or demand (except as expressly required by any Loan Document or non-waivable provision of any Legal Requirement), as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Agent may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Agent:

- (a) declare the entire unpaid Debt to be immediately due and payable;
- (b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Mortgage under any applicable provision of law, in which case the Property 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;
- (c) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Mortgage for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Mortgage for the balance of the Debt not then due, unimpaired and without loss of priority;
- (d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entirety or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law; and, without limiting the foregoing:
  - i) In connection with any sale or sales hereunder, Agent shall be entitled to elect to treat any of the Property which consists of (x) a right in action, or (y) property that can be severed from the Real Property covered hereby, or (z) any improvements (without causing structural damage thereto), as if the same were personal property, and dispose of the same in accordance with applicable law, separate and apart from the sale of the Real Property. Where the Property consists of the Real Property, the Personal Property, the Equipment or the Fixtures, whether or not such Personal Property or Equipment is located on or within the Real Property, Agent shall be entitled to elect to exercise its rights and remedies against any or all of the Real Property, the Personal Property, the Equipment and the Fixtures in such order and manner as is now or hereafter permitted by applicable law;
  - ii) Agent shall be entitled to elect to proceed against any or all of the Real Property, Personal Property, Equipment and Fixtures in any manner permitted under applicable law; and if Agent so elects pursuant to applicable law, the power of sale herein granted shall be exercisable with respect to all or any of the Real Property, Personal Property, Equipment and Fixtures covered hereby, as designated by Agent and Agent

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is hereby authorized and empowered to conduct any such sale of any Real Property, Personal Property, Equipment and Fixtures in accordance with the procedures applicable to Real Property;

- iii) Should Agent elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that Agent has elected under applicable law to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Agent shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, subject to the terms hereof and of the other Loan Documents, and without the necessity of any demand on Borrower, Agent at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States. Agent may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and
- iv) If the Property consists of several lots, parcels or items of property, Agent shall, subject to applicable law, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Agent designates in Agent's sole discretion. Any Person, including Borrower or Agent, may purchase at any sale hereunder. Should Agent desire that more than one sale or other disposition of the Property be conducted, Agent shall, subject to applicable law, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Agent may designate, and no such sale shall terminate or otherwise affect the Lien of this Mortgage on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Agent elects to dispose of the Property through more than one sale, except as otherwise provided by applicable law, Borrower agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;
- (e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement or in the other Loan Documents;
- (f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Mortgage or the other Loan Documents;
- (g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any guarantor, indemnitor with respect to the Loan or of any Person liable for the payment of the Debt;

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(h) As and to the extent not expressly prohibited by applicable law, Agent may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Agent upon demand, and thereupon Agent may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat; (ii) complete any construction on the Property in such manner and form as Agent deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify any Leases, obtain and evict tenants, and demand, sue for, collect and receive any Rents of the Property and every part thereof; (v) require Borrower to vacate and surrender possession of the Property to Agent or to any receiver appointed to collect any Rents and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vi) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Agent shall deem appropriate in its sole discretion 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 Property, as well as just and reasonable compensation for the services of Agent, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of the Fixtures, the Equipment and the Personal Property, or any part thereof, and to take such other measures as Agent may deem necessary for the care, protection and preservation of the Fixtures, the Equipment and the Personal Property, and (ii) request Borrower at its expense to assemble the Fixtures, the Equipment and the Personal Property and make it available to Agent at a convenient place acceptable to Agent. Any notice of sale, disposition or other intended action by Agent with respect to the Fixtures, the Equipment and/or the Personal Property sent to Borrower in accordance with the provisions hereof at least five (5) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited or held in escrow or otherwise by or on behalf of Agent in accordance with the terms of the Loan Agreement, this Mortgage or any other Loan Document to the payment of the following items in any order in its uncontrolled discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) Interest on the unpaid principal balance of the Note;
- (iv) Amortization of the unpaid principal balance of the Note;
- (v) All other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Loan Documents, including without limitation the

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Return Differential and advances made by Agent pursuant to the terms of this Mortgage;

(k) pursue such other remedies as Agent may have under applicable law; or

(l) apply the undisbursed balance of any Net Proceeds Deficiency deposit, together with interest thereon, to the payment of the Debt in such order, priority and proportions as Agent shall deem to be appropriate in its discretion.

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

Section 7.2 APPLICATION OF PROCEEDS. The purchase money, proceeds and avails of any disposition of the Property, and or any part thereof, or any other sums collected by Agent pursuant to the Note, this Mortgage or the other Loan Documents, may be applied by Agent to the payment of the Debt in such priority and proportions as Agent in its discretion shall deem proper, to the extent consistent with Legal Requirements.

Section 7.3 RIGHT TO CURE DEFAULTS. Upon the occurrence and during the continuance of any Event of Default, Agent may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do the same in such manner and to such extent as Agent may deem necessary to protect the security hereof. Agent is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Mortgage or collect the Debt, and the cost and expense thereof (including reasonable attorneys' fees to the extent permitted by law), with interest as provided in this Section 7.3, shall constitute a portion of the Debt and shall be due and payable to Agent upon demand. All such costs and expenses incurred by Agent in remedying such Event of Default or such failed payment or act or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period after notice from Agent that such cost or expense was incurred to the date of payment to Agent. All such costs and expenses incurred by Agent together with interest thereon calculated at the Default Rate shall be deemed to constitute a portion of the Debt and be secured by this Mortgage and the other Loan Documents and shall be immediately due and payable upon demand by Agent therefor.

Section 7.4 ACTIONS AND PROCEEDINGS. Agent has the right to appear in and defend any action or proceeding brought with respect to the Property and to bring any action or proceeding, in the name and on behalf of Borrower, which Agent, in its discretion, decides should be brought to protect its interest in the Property.

Section 7.5 RECOVERY OF SUMS REQUIRED TO BE PAID. Agent shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Agent thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

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Section 7.6 EXAMINATION OF BOOKS AND RECORDS. At reasonable times and upon reasonable notice, Agent, its agents, accountants and attorneys shall have the right to examine the records, books, management and other papers of Borrower which reflect upon its financial condition, at the Property or at any office regularly maintained by Borrower where the books and records are located. Agent and its agents shall have the right to make copies and extracts from the foregoing records and other papers. In addition, at reasonable times and upon reasonable notice, Agent, its agents, accountants and attorneys shall have the right to examine and audit the books and records of Borrower pertaining to the income, expenses and operation of the Property during reasonable business hours at any office of Borrower where the books and records are located. This Section 7.6 shall apply throughout the term of the Note and without regard to whether an Event of Default has occurred or is continuing.

Section 7.7 OTHER RIGHTS, ETC.

(a) The failure of Agent to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Borrower shall not be relieved of Borrower's obligations hereunder by reason of (i) the failure of Agent to comply with any request of Borrower or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any person liable for the Debt or any portion thereof, or (iii) any agreement or stipulation by Agent extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Borrower prior to Lender or its agent taking title to the Property by a foreclosure or transfer in lieu of the Mortgage or to the Pledged Interest by a foreclosure or assignment in lieu of the Pledge Foreclosure Agreement or otherwise, and Agent shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Agent shall not be deemed an election of judicial relief if any such possession is requested or obtained with respect to any Property or collateral not in Agent's possession.

(c) During the existence and continuance of an Event of Default, Agent may resort for the payment of the Debt to any other security held by Agent in such order and manner as Agent, in its discretion, may elect. During the existence and continuance of an Event of Default, Agent may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Agent thereafter to foreclose this Mortgage. The rights of Agent under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Agent shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Agent shall not be limited exclusively to the rights and remedies herein stated but shall be entitled to every right and remedy now or hereafter afforded at law or in equity.

Section 7.8 RIGHT TO RELEASE ANY PORTION OF THE PROPERTY. Agent may release any portion of the Property for such consideration as Agent may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Mortgage,



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or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Agent for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Agent may require without being accountable for so doing to any other lienholder. This Mortgage shall continue as a lien and security interest in the remaining portion of the Property.

## Section 7.9

Section 7.10 RECOURSE AND CHOICE OF REMEDIES. Notwithstanding any other provision of this Mortgage or the Loan Agreement, including, without limitation, Section 9.1 of the Loan Agreement, Agent and other Indemnified Parties (as hereinafter defined) are entitled to enforce the obligations of Borrower, any guarantor and indemnitor contained in Section 9.1 of the Loan Agreement without first resorting to or exhausting any security or collateral and without first having recourse to the Note or any of the Property, through foreclosure or acceptance of a deed in lieu of foreclosure or otherwise, and in the event Agent commences a foreclosure action against the Property, Agent is entitled to pursue a deficiency judgment with respect to such obligations against Borrower and any guarantor or indemnitor with respect to the Loan. The provisions of Section 9.1 of the Loan Agreement are exceptions to any non-recourse or exculpation provisions in the Loan Agreement, the Note, this Mortgage or the other Loan Documents, and Borrower and any guarantor or indemnitor with respect to the Loan are fully and personally liable for the obligations pursuant to Section 9.1 of the Loan Agreement. The liability of Borrower and any guarantor or indemnitor with respect to the Loan pursuant to Section 9.1 of the Loan Agreement is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Agent from foreclosing or exercising any other rights and remedies pursuant to the Loan Agreement, the Note, this Mortgage and the other Loan Documents, whether simultaneously with foreclosure proceedings or in any other sequence. A separate action or actions may be brought and prosecuted against Borrower pursuant to Section 9.1 of the Loan Agreement, whether or not action is brought against any other Person or whether or not any other Person is joined in the action or actions.

Section 7.11 RIGHT OF ENTRY. During the existence and continuance of an Event of Default, upon reasonable notice to Borrower, Agent and its agents shall have the right to enter and inspect the Property at all reasonable times.

## Section 7.12 BANKRUPTCY.

(a) Upon the occurrence and during the continuance of an Event of Default, Agent shall have the right, and Borrower hereby assigns to Agent its right and irrevocably constitutes and appoints Agent its attorney-in-fact, coupled with an interest, to proceed in its own name or in the name of Borrower in respect of any claim, suit, action or proceeding relating to the rejection of any Lease, including, without limitation, the right to file and prosecute, to the exclusion of Borrower, any proofs of claim, complaints, motions, applications, notices and other documents, in any case in respect of the lessee under such Lease under the Bankruptcy Code.

(b) If there shall be filed by or against Borrower a petition under the Bankruptcy Code and Borrower, as lessor under any Lease, shall determine to reject such Lease pursuant to Section



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365(a) of the Bankruptcy Code, then Borrower shall give Agent not less than ten (10) days' prior notice of the date on which Borrower shall apply to the bankruptcy court for authority to reject the Lease. Agent shall have the right, but not the obligation, to serve upon Borrower within such ten (10) day period a notice stating that (i) Agent demands that Borrower assume and assign the Lease to Agent pursuant to Section 365 of the Bankruptcy Code and (ii) Agent covenants to cure or provide adequate assurance of future performance under the Lease. If Agent serves upon Borrower the notice described in the preceding sentence, Borrower shall not seek to reject the Lease and shall comply with the demand provided for in clause (i) of the preceding sentence within thirty (30) days after the notice shall have been given, subject to the performance by Agent of the covenant provided for in clause (ii) of the preceding sentence.

## Article 8 -

### ENVIRONMENTAL HAZARDS

Section 8.1 ENVIRONMENTAL COVENANTS. Borrower has provided representations, warranties and covenants regarding environmental matters set forth in the Environmental Indemnity and Borrower shall comply with the aforesaid covenants regarding environmental matters.

## Article 9 -

### INDEMNIFICATION

The provisions of Section 4.1.21 of the Loan Agreement are hereby incorporated by reference into this Mortgage to the same extent and with the same force as if fully set forth herein.

## Article 10 -

### WAIVERS

Section 10.1 WAIVER OF COUNTERCLAIM. To the extent permitted by applicable law, Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Agent arising out of or in any way connected with this Mortgage, the Loan Agreement, the Note, any of the other Loan Documents, or the Obligations.

Section 10.2 MARSHALLING AND OTHER MATTERS. To the extent permitted by applicable law, Borrower hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date of this Mortgage and on behalf of all persons to the extent permitted by applicable law.

Section 10.3 WAIVER OF NOTICE. To the extent permitted by applicable law, Borrower shall not be entitled to any notices of any nature whatsoever from Agent except with respect to

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matters for which this Mortgage specifically and expressly provides for the giving of notice by Agent to Borrower and except with respect to matters for which Agent is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Agent with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Agent to Borrower.

Section 10.4 WAIVER OF STATUTE OF LIMITATIONS. To the extent permitted by applicable law, Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 10.5 WAIVER OF TRIAL BY JURY. EACH OF BORROWER AND AGENT, BY ITS ACCEPTANCE OF THIS MORTGAGE, HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE LOAN AGREEMENT, THE NOTE, THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY BORROWER AND AGENT AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. BORROWER AND AGENT ARE EACH HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY EACH PARTY.

Article 11 -

[Intentionally Omitted.]

Article 12 -

NOTICES

All notices or other written communications hereunder shall be delivered in accordance with Section 9.6 of the Loan Agreement.

Article 13 -

APPLICABLE LAW

Section 13.1 GOVERNING LAW. (A) THIS MORTGAGE AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS) AND ANY APPLICABLE LAW OF THE UNITED STATES OF AMERICA, EXCEPT THAT AT ALL

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**TIMES (I) THE PROVISIONS FOR THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED PURSUANT HERETO AND PURSUANT TO THE OTHER LOAN DOCUMENTS WITH RESPECT TO THE PROPERTY (OTHER THAN THAT DESCRIBED IN SUBPARAGRAPH II BELOW) SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH THE PROPERTY AND FIXTURES ARE LOCATED AND (II) WITH RESPECT TO THE PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED BY THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS IN PROPERTY WHOSE PERFECTION AND PRIORITY IS COVERED BY ARTICLE 9 OF THE UCC (INCLUDING, WITHOUT LIMITATION, THE ACCOUNTS), THE LAW OF THE JURISDICTION APPLICABLE IN ACCORDANCE WITH THE UCC AS IN EFFECT IN THE STATE OF ILLINOIS SHALL GOVERN. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY UNCONDITIONALLY AND IRREVOCABLY WAIVES ANY CLAIM TO ASSERT THAT THE LAW OF ANY OTHER JURISDICTION GOVERNS THIS MORTGAGE AND/OR THE OTHER LOAN DOCUMENTS, AND THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW EXCEPT AS SPECIFICALLY SET FORTH ABOVE.**

**(B) ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST AGENT OR BORROWER ARISING OUT OF OR RELATING TO THIS MORTGAGE MAY AT AGENT'S OPTION BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF NEW YORK, COUNTY OF NEW YORK, PURSUANT TO SECTION 5-1402 OF THE NEW YORK GENERAL OBLIGATIONS LAW, AND BORROWER WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING, AND BORROWER HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER DOES HEREBY DESIGNATE AND APPOINT:**

**C T Corporation System  
28 Liberty Street  
New York, NY 10005**

**AS ITS AUTHORIZED AGENT TO ACCEPT AND ACKNOWLEDGE ON ITS BEHALF SERVICE OF ANY AND ALL PROCESS WHICH MAY BE SERVED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY FEDERAL OR STATE COURT IN NEW YORK, NEW YORK, AND AGREES THAT SERVICE OF PROCESS UPON SAID AGENT AT SAID ADDRESS AND WRITTEN NOTICE OF SAID SERVICE MAILED OR DELIVERED TO BORROWER IN THE MANNER PROVIDED IN THE LOAN AGREEMENT SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON BORROWER IN ANY SUCH SUIT, ACTION OR PROCEEDING IN**

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THE STATE OF NEW YORK. BORROWER (I) SHALL GIVE PROMPT NOTICE TO AGENT OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT HEREUNDER, (II) MAY AT ANY TIME AND FROM TIME TO TIME DESIGNATE A SUBSTITUTE AUTHORIZED AGENT WITH AN OFFICE IN NEW YORK, NEW YORK (WHICH SUBSTITUTE AGENT AND OFFICE SHALL BE DESIGNATED AS THE PERSON AND ADDRESS FOR SERVICE OF PROCESS), AND (III) SHALL PROMPTLY DESIGNATE SUCH A SUBSTITUTE IF ITS AUTHORIZED AGENT CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

Section 13.2 USURY LAWS. Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Agent are hereby and shall automatically be limited so that, after taking into account all amounts deemed interest, the interest contracted for, charged or received by Agent shall never exceed the Maximum Legal Rate or amount, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal indebtedness of Borrower to Agent, and (c) if through any contingency or event, Agent receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding indebtedness of Borrower to Agent or if there is no such indebtedness, shall immediately be returned to Borrower.

Section 13.3 PROVISIONS SUBJECT TO APPLICABLE LAW. All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of the term shall not be affected thereby.

Article 14 -

## DEFINITIONS

All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in singular or plural form and the word "**Borrower**" shall mean "Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "**Lender**" shall mean "Lender and any subsequent holder of the Note," the word "**Note**" shall mean "the Note and any other evidence of indebtedness secured by this Mortgage," the word "**Property**" shall include any portion of the Property and any interest therein, and the phrases "**attorneys' fees**", "**legal fees**" and "**counsel fees**" shall include any and all attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Agent in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

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## Article 15 -

### MISCELLANEOUS PROVISIONS

Section 15.1 NO ORAL CHANGE. This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Agent, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 15.2 SUCCESSORS AND ASSIGNS. This Mortgage shall be binding upon and inure to the benefit of Borrower and Agent and their respective successors and assigns, as set forth in the Loan Agreement. Agent shall have the right to assign or transfer its rights under this Mortgage in connection with any assignment of the Loan and the Loan Documents. Any assignee or transferee of Agent shall be entitled to all the benefits afforded to Agent under this Mortgage. Borrower shall not have the right to assign or transfer its rights or obligations under this Mortgage without the prior written consent of Agent, as provided in the Loan Agreement, and any attempted assignment without such consent shall be null and void.

Section 15.3 INAPPLICABLE PROVISIONS. If any term, covenant or condition of the Loan Agreement, the Note or this Mortgage is held to be invalid, illegal or unenforceable in any respect, the Loan Agreement, the Note and this Mortgage shall be construed without such provision.

Section 15.4 HEADINGS, ETC. The headings and captions of various Sections of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 15.5 NUMBER AND GENDER. 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.

Section 15.6 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Agent shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Agent and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, the performance and discharge of Borrower's obligations hereunder, under the Loan Agreement, the Note and the other Loan Documents and the performance and discharge of the Other Obligations.

Section 15.7 ENTIRE AGREEMENT. The Note, the Loan Agreement, this Mortgage and the other Loan Documents constitute the entire understanding and agreement among Borrower, Lenders and Agent with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements among Borrower, Lenders and Agent with respect thereto. Borrower hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Mortgage and the other Loan Documents, there are not, and



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were not, and no Persons are or were authorized by Agent to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

Section 15.8 LIMITATION ON AGENT'S RESPONSIBILITY. No provision of this Mortgage shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Agent, nor shall it operate to make Agent responsible or liable for any waste committed on the Property by the tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Agent a "mortgagee in possession."

Section 15.9 JOINT AND SEVERAL. If more than one Person has executed this Mortgage as "Borrower," the representations, covenants, warranties and obligations of all such Persons hereunder shall be joint and several.

Section 15.10 COUNTERPARTS. This Mortgage may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Mortgage may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which shall constitute a single agreement. The failure of any party hereto to execute this Mortgage, or any counterpart thereof, shall not relieve the other signatories from their obligations hereunder.

Section 15.11 CHARACTERIZATION OF ADVANCES. The determination of whether any advance made by Agent is an Advance under the Loan Agreement shall not be affected by whether Agent maintains separate records specifically identifying Advances as such.

## Article 16 -

### STATE-SPECIFIC PROVISIONS

Section 16.1 PRINCIPLES OF CONSTRUCTION. In the event of any inconsistencies between the terms and conditions of this Article 16 and the other terms and conditions of this Mortgage, the terms and conditions of this Article 16 shall control and be binding.

Section 16.2 USE OF PROCEEDS. The Borrower represents and agrees that the Debt is exempt from the limitation upon the amount of interest that may be charged under 815 ILCS 205/4 for one or more of the reasons set forth in such statute, and the Debt constitutes a business loan which comes within the purview of 815 ILCS 205/4.

Section 16.3 FUTURE ADVANCES. This Mortgage secures not only present indebtedness but also future advances, whether such future advances are obligatory or are to be made at the option of Lenders, or otherwise. The amount of indebtedness secured hereby may increase or decrease from time to time, and the rate or rates of interest payable may vary from time to time.



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Section 16.4 LIMITATION ON DEBT. It is expressly understood and agreed that the Debt will in no event exceed two hundred percent (200%) of (i) the aggregate total face amount of the Note plus (ii) the total interest which may hereafter accrue under the Note on such face amount.

Section 16.5 WAIVER OF HOMESTEAD AND REDEMPTION. Borrower releases and waives all rights under the homestead and exemption laws of the State of Illinois. Borrower acknowledges that the Property does not include "agricultural real estate" or "residential real estate" as those terms are defined in 735 ILCS 5/15-1201 and 5/15-1219 respectively. Pursuant to 735 ILCS 5/15-1601(b), Borrower waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage or other rights of redemption which may run to Borrower or any other "Owner of Redemption", as that term is defined in 735 ILCS 5/15-1212. To the fullest extent permitted by Illinois law, Borrower waives all rights of reinstatement under 735 ILCS 5/15-1602.

## Section 16.6 ILLINOIS MORTGAGE FORECLOSURE LAW.

### (a) Illinois Mortgage Foreclosure Law.

(i) In the event that any provisions in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et seq., as the same may be amended from time to time, the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with Act.

(ii) If any provision of this Mortgage shall grant to Agent any rights or remedies upon the occurrence and during the continuation of an Event of Default of Borrower which are more limited than the rights that would otherwise be vested in Agent under the Act in the absence of said provision, Agent shall be vested with the rights granted in the Act to the full extent permitted by law.

(iii) Without limiting the generality of the foregoing, all expenses incurred by Agent to the extent reimbursable under Sections 15-1510 and 15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in this Mortgage, shall be added to the Debt.

(iv) Borrower acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in Section 15-1201 of the Act) or residential real estate (as defined in Section 15-1219 of the Act), and hereby voluntarily and knowingly waives, to the full extent permitted by law, its rights to reinstatement and redemption to the extent allowed under Section 15-1610(b) of the Act, and to the full extent permitted by law, the benefits of all present and future valuation, appraisal, homestead, exemption, stay, redemption and moratorium laws under any state or federal law.

(v) Borrower and Agent shall have the benefit of all of the provisions of the Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Agent shall have the benefit of such provision

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as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(b) Borrower Waivers.

(i) Borrower agrees, to the fullest extent that Borrower may lawfully so agree, that Borrower will not at any time insist upon or plead or in any manner whatsoever claim the benefit of any valuation, stay, extension, or exemption law now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Mortgage or the absolute sale of the Property or the possession thereof by any purchaser at any sale made pursuant to any provision hereof, or pursuant to the decree of any court of competent jurisdiction; but Borrower, for Borrower and all who may claim through or under Borrower, so far as Borrower or those claiming through or under Borrower now or hereafter lawfully may, hereby waives the benefit of all such laws. Borrower, to the extent Borrower may lawfully do so, hereby waives any and all right to have the Property marshaled upon any foreclosure of this Mortgage, or sold in inverse order of alienation, and agrees that Agent or any court having jurisdiction to foreclose this Mortgage may sell the Property as an entirety. If any law now or hereafter in force referred to in this Paragraph of which Borrower or Borrower's successor or successors might take advantage despite the provisions hereof, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the operation or application of the provisions of this Paragraph.

(ii) In the event of the commencement of judicial proceedings to foreclose this Mortgage, Borrower, on behalf of Borrower, its successors and assigns, and each and every person or entity they may legally bind acquiring any interest in or title to the Property subsequent to the date of this Mortgage: (a) expressly waives any and all rights of appraisal, valuation, stay, extension and (to the extent permitted by law) reinstatement and redemption from sale under any order or decree of foreclosure of this Mortgage; and (b), to the extent permitted by applicable law, agrees that when sale is had under any decree of foreclosure of this Mortgage, upon confirmation of such sale, the officer making such sale, or his successor in office, shall be and is authorized immediately to execute and deliver to any purchaser at such sale a deed conveying the Property, showing the amount paid therefor, or if purchased by the person in whose favor the order or decree is entered, the amount of his bid therefor.

Section 16.7 COLLATERAL PROTECTION ACT. Unless Borrower provides Agent with evidence of the insurance required by this Mortgage or any other Loan Document, Agent may purchase insurance at Borrower's expense to protect Agent's interest in the Property or any other collateral for the indebtedness secured hereby. This insurance may, but need not, protect Borrower's interests. The coverage Agent purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Property or any other collateral for the indebtedness secured hereby. Borrower may later cancel any insurance purchased by Agent, but only after providing Agent with evidence that Borrower has obtained insurance as

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required under by this Mortgage or any other Loan Document. If Agent purchases insurance for the Property or any other collateral for the indebtedness secured hereby, Borrower shall be responsible for the costs of that insurance, including interest in any other charges that Agent may lawfully impose 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 indebtedness secured hereby. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own.

Section 16.8 MORTGAGEE IN POSSESSION. In addition to any provision of this Mortgage authorizing Agent to take or be placed in possession of the Property, or for the appointment of a receiver, Agent shall have the right, subject to Sections 15-1701 and 15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Agent, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all powers, immunities, and duties as provided for in Sections 15-1701 and 15-1703 of the Act.

Section 16.9 POWER OF SALE. Any references to "power of sale" in this Mortgage are permitted only to the extent allowed by law.

Section 16.10 NO LIEN MANAGEMENT AGREEMENTS. Borrower shall include a "no lien" provision in any property management agreement hereafter entered into by Borrower with a property manager for the Property, whereby the property manager waives and releases, as and to the extent not expressly prohibited by applicable law, any and all mechanics' lien rights that the property manager, or anyone claiming through or under the property manager, may have pursuant to 770 ILCS 60/1. Such property management agreement containing such "no lien" provision or a short form thereof shall, at Lender's request, be recorded with the Cook County Clerk's office, as appropriate.


[Remainder of Page Intentionally Left Blank. Signature Page Follows.]

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IN WITNESS WHEREOF, this Mortgage has been executed by Borrower as of the day and year first above written.

**BORROWER:**

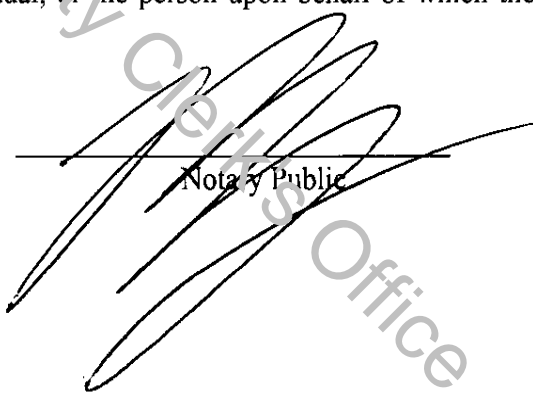
**ONNI HALSTED STREET CHICAGO LLC,**  
a Delaware limited liability company

By:   
Name: Sam Parrotta  
Title: Authorized Signatory

PROVINCE  
STATE OF BRITISH COLUMBIA  
CITY  
COUNTY OF VANCOUVER

On the 5 day of DECEMBER in the year 2021 before me, the undersigned, a Notary Public in and for said ~~State~~ <sup>Province</sup>, personally appeared Sam Parrotta, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

(Notarial Seal)

  
Notary Public

Jon Bunyan  
Barrister & Solicitor  
Onni Group  
200 - 1010 Seymour Street  
Vancouver , B.C., V6B 3M6  
T: (604) 602 - 7711

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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

LOTS 12, 13, 14, 15, 16, 17, 18 AND 19 IN BLOCK 97, ALL OF BLOCK 98 AND THAT PART OF VACATED NORTH BRANCH WATER STREET LYING BETWEEN BLOCKS 97 AND 98, ALL IN ELSTON'S ADDITION TO CHICAGO IN THE SOUTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

#### PARCEL 2:

THE NORTHWEST HALF OF LOT 11 IN BLOCK 81 IN ELSTON'S ADDITION TO CHICAGO IN SECTIONS 4 AND 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING THAT PART OF LOT 11 AFORESAID, LYING NORTH OF A LINE DESCRIBED AS FOLLOWS:

BEGINNING ON THE EASTERLY LINE OF SAID LOT 11, AT A POINT EQUI-DISTANCE FROM THE NORTHEAST CORNER AND THE SOUTHEAST CORNER OF THE EAST HALF OF SAID LOT, RUNNING THENCE DUE WEST THROUGH THE CENTER OF SAID LOT 11, AND PARALLEL WITH THE SOUTH LINE OF THE EAST 1/2 THEREOF, TO A POINT 88 FEET 11 3/4 INCHES DIRECTLY WEST FROM THE EAST LINE, RUNNING THENCE FROM SAID MENTIONED POINT SOUTHWESTERLY THROUGH THE CENTER OF THE SOUTHWESTERLY 1/2 OF SAID LOT 11, AND PARALLEL WITH THE SOUTHEASTERLY LINE OF THE SOUTHWESTERLY 1/2 TO A POINT IN THE SOUTHWESTERLY LINE OF SAID LOT MIDWAY BETWEEN AND EQUI-DISTANCE FROM THE SOUTHWESTERLY CORNER OF THE SOUTHWESTERLY 1/2 OF LOT 11 AND THE NORTHWESTERLY CORNER OF SAID SOUTHWESTERLY 1/2 OF SAID LOT 11, IN COOK COUNTY, ILLINOIS.

#### PARCEL 3:

ALL THAT PORTION OF LOT 11 IN BLOCK 81 IN ELSTON'S ADDITION TO CHICAGO LYING SOUTH OF A LINE RUNNING THROUGH THE CENTER OF SAID LOT, SAID LINE BEING MORE PARTICULARLY LOCATED AND DESIGNATED AS FOLLOWS:

STARTING ON THE EASTERLY LINE OF SAID LOT 11 AT A POINT EQUAL DISTANT FROM THE NORTHEAST CORNER AND THE SOUTHEAST CORNER OF THE EAST 1/2 OF SAID LOT, RUNNING THENCE WEST THROUGH THE CENTER OF SAID LOT 11 AND PARALLEL WITH THE SOUTH LINE OF THE EAST 1/2 THEREOF TO A POINT 88 FEET 11 3/4 INCHES DIRECTLY WEST FROM SAID EAST LINE RUNNING THENCE FROM SAID MENTIONED POINT SOUTHWESTERLY THROUGH THE CENTER OF THE SOUTHWESTERLY 1/2 OF SAID LOT 11 AND PARALLEL WITH THE SOUTHEASTERLY LINE OF SAID SOUTHWESTERLY 1/2 TO A POINT IN THE SOUTHWESTERLY LINE OF SAID LOT MIDWAY BETWEEN AND EQUAL DISTANT FROM THE SOUTHEASTERLY CORNER OF THE SOUTHWESTERLY 1/2 OF SAID LOT 11 AND THE NORTHWESTERLY CORNER OF THE SAID SOUTHWESTERLY 1/2 OF SAID LOT 11 OF SECTION 5, TOWNSHIP 39 NORTH,



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RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

PARCEL 4:

LOTS 12 AND 13 IN BLOCK 81 IN ELSTON'S ADDITION TO CHICAGO IN THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property of Cook County Clerk's Office

COOK COUNTY CLERK'S OFFICE  
RECORDING DIVISION  
118 N. QUINCY ST. 15TH FLOOR  
CHICAGO, IL 60601-1507