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\*2407111011\*

Doc# 2407111011 Fee \$88.00  
ILRHSP FEE:\$18.00 RPRF FEE:\$1.00  
KAREN A. YARBROUGH

COOK COUNTY CLERK'S OFFICE

DATE: 3/11/2024 11:29 AM

PAGE: 1 OF 30

## Illinois Anti-Predatory Lending Database Program

### Certificate of Exemption



Report Mortgage Fraud  
844-768-1713

The property identified as: **PIN:** 17-03-228-004-0000

**Address:**

**Street:** 850 NORTH LAKE SHORE DRIVE

**Street line 2:**

**City:** CHICAGO

**State:** IL

**ZIP Code:** 60611

**Lender:** CENTERBRIDGE MARTELLO ADVISORS, LLC AS ADM.AGT FBO MASSMUTUAL ASCEND LIFE  
INSURANCE CO. AND MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY

**Borrower:** 850 LAKE SHORE PROPERTY, LLC

**Loan / Mortgage Amount:** \$61,000,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it consists of more than 4 units.

**Certificate number:** 0426B3E3-552B-4437-AD43-9C97EDC1BE63

**Execution date:** 3/7/2024

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**THIS DOCUMENT WAS PREPARED BY, AND AFTER RECORDING, RETURN TO:**

Latham & Watkins LLP  
330 North Wabash Avenue  
Chicago, Illinois 60611  
Attention: Robert Fernandez, Esq.

**PERMANENT TAX INDEX NUMBERS:**

17-03-228-004-0000  
17-03-228-005-0000  
17-03-228-016-0000  
17-03-228-037-0000

**PROPERTY ADDRESS:**

850 North Lake Shore Drive  
Chicago, Illinois 60611

*This space reserved for Clerk's use only*

CCH# 230393961 DS (2 of 2)

850 LAKE SHORE PROPERTY, LLC,  
a Delaware limited liability company  
(Borrower)

to

CENTERBRIDGE MARTELLO ADVISORS, LLC,  
a Delaware limited liability company,  
as administrative agent

for the benefit of

MASSMUTUAL ASCEND LIFE INSURANCE COMPANY, an Ohio life insurance company  
and  
MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, a Massachusetts life insurance  
company  
(the initial lenders)

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

**AMOUNT:** Up to \$61,000,000.00

Dated: As of March 7, 2024

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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 7th day of March, 2024, by 850 LAKE SHORE PROPERTY, LLC, a Delaware limited liability company, having an address at 2200 Biscayne Boulevard, Miami, Florida 33137 ("Borrower"), as mortgagor, for the benefit of CENTERBRIDGE MARTELLO ADVISORS, LLC, a Delaware limited liability company, having an address at 375 Park Avenue, 11<sup>th</sup> Floor, New York, New York 10152 ("Centerbridge"), as administrative agent (together with its successors and assigns in such capacity, the "Administrative Agent") for the benefit of MASSMUTUAL ASCEND LIFE INSURANCE COMPANY, an Ohio life insurance company and MASSACHUSETTS MUTUAL LIFE INSURANCE COMPANY, a Massachusetts life insurance company, each in their capacity as the initial lender (together with any additional or subsequent lenders which may become a party to the Loan Agreement (as defined below) from time to time, collectively, the "Lenders"; and, together with the Administrative Agent, collectively, "Secured Party"); Secured Party, as mortgagee.

### WITNESSETH:

WHEREAS, Borrower and Secured Party have entered into that certain Loan and Security Agreement dated as of the date hereof between Borrower and Secured Party (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement"), pursuant to which Lenders are making a loan to Borrower in the maximum principal amount of \$61,000,000.00 (the "Loan");

WHEREAS, Borrower desires to fully secure the payment of the Debt as set forth in the Loan Agreement and the performance of all of its obligations under the Note, the Loan Agreement and all other documents executed by Borrower and/or Guarantor in connection with the Loan including any such documents which may be executed by one or more other Persons as well for the benefit of Lenders (collectively, the "Loan Documents"); and

WHEREAS, this Mortgage is given pursuant to the Loan Agreement, as security for the 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. All capitalized terms not defined herein shall have the respective meanings set forth in the Loan Agreement.

NOW THEREFORE, in consideration of the making of the Loan by the 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 and grant a security interest to Administrative Agent for itself and for the benefit of the Lenders and their respective

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successors and assigns in the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (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/or for any other use 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 regardless of ownership thereof (the "**Additional Land**");

(c) Improvements. All buildings, foundations, structures, fixtures, additions, enlargements, extensions, modifications, repairs, replacements and improvements of every kind or nature now or hereafter erected or located on the Land or the Additional Land (collectively, the "**Improvements**");

(d) Easements and Other Beneficial Interests. 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, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land, the Additional Land and the Improvements 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 or in and to the Land or the Additional Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) 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 is used at or in connection with the Improvements or the Land or the Additional 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;

(f) Fixtures. All Equipment now owned, or the ownership of which is hereafter acquired, by Borrower which is so related to the Land or the Additional Land and 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

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connection with (temporarily or permanently) any of the Improvements or the Land or the Additional 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;

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, supplies, appliances, general intangibles, contract rights, chattel paper, inventory accounts (including, without limitation, the Collateral Accounts and any funds in such Collateral Accounts from time to time), 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, states, commonwealth or commonwealths where any of the Property is located (the "**Uniform Commercial Code**"), superior in lien to the lien of this Mortgage and all proceeds and products of the above;

(h) Leases and Rents. All leases, subleases, subsubleases, lettings, licenses, concessions or other agreements (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or providing for the use, enjoyment or occupancy of the Land and 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 to be performed and observed by the other party thereto, heretofore or hereafter entered into, and all extensions, amendments and modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code (collectively, the "**Leases**") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, lease guaranties, 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, early termination fees and payments and other termination fees and payments, 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,

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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, enjoyment and occupancy of property or rendering of services by Borrower or Manager and proceeds, if any, from business interruption or other loss of income insurance whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code, and all of Borrower's claims and rights to the payment of damages arising from the rejection by a lessee of any Lease 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;

(i) 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; and all rights, remedies and powers of Borrower under the foregoing, including, without limitation, any right to appoint members to the Condominium Board and the right to exercise any voting rights thereunder;

(j) Insurance Proceeds. All proceeds in respect of the Property under any insurance policies covering the Property, 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;

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

(l) Rights. 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 Secured Party in the Property;

(m) Agreements. All agreements, contracts, certificates, instruments, letters of credit, 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 happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

(n) 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;

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(o) 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 Cash Management 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;

(p) Interest Rate Protection Agreement. The Interest Rate Protection Agreement, including, but not limited to, all "accounts", "chattel paper", "general intangibles" and "investment property" (as such terms are defined in the Uniform Commercial Code as from time to time in effect) constituting or relating to the foregoing; and all products and proceeds of any of the foregoing;

(q) Condominium Documents Rights. All cooperative or condominium declaration and any other related cooperative or condominium documents now or hereafter affecting the Property, including, without limitation, the Offering Plan and any other Condominium Documents, as and when entered into by Borrower;

(r) REAs. All right, title and interest in, to and under the REAs, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time;

(s) Zoning Documents. All right, title and interest in, to and under the Zoning Documents, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time;

(t) 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

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

AND without limiting any of the other provisions of this Mortgage, to the extent permitted by applicable law, Borrower expressly grants to Secured Party a security interest in the portion of the 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 being collectively referred to herein as the "**Real Property**") appropriated to the use thereof and whether affixed or annexed to the Land or not, shall for the purposes of this Mortgage be deemed conclusively to be real estate and mortgaged hereby.

Section 1.2 ASSIGNMENT OF LEASES AND RENTS. Borrower hereby absolutely and unconditionally assigns to Secured Party 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 present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of Section 7.1(h) of this Mortgage, Secured Party grants to Borrower a revocable license to exercise all rights and remedies with respect to the Leases, including the right to operate the Property, and collect, receive, use and enjoy the Rents. Borrower shall hold the

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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 Secured Party, 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 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, Secured Party, 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 Secured Party may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Secured Party 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 Secured Party at a convenient place (at the Land if tangible property) reasonably acceptable to Administrative Agent. Borrower shall pay to Secured Party on demand any and all expenses, including reasonable legal expenses and attorneys' fees, incurred or paid by Secured Party 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. Any notice of sale, disposition or other intended action by Secured Party 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 Secured Party to the payment of the Debt in such priority and proportions as Secured Party in its discretion shall deem proper. It is not necessary that the Collateral be present at any disposition thereof. Secured Party shall have no obligation to clean-up or otherwise prepare the Collateral for disposition. The principal place of business of Borrower (Debtor) is as set forth on page one hereof and the address of Secured Party (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 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.

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



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Section 1.6 Borrower authorizes Administrative Agent and its counsel to file UCC financing statements in form and substance satisfactory to Administrative Agent, describing the collateral as all assets of Borrower, all Property of Borrower or using words with similar effect.

## CONDITIONS TO GRANT

**TO HAVE AND TO HOLD** the above granted and described Property unto and to the use and benefit of Secured Party and its successors and assigns, forever;

**PROVIDED, HOWEVER**, these presents are upon the express condition that, if Borrower shall well and truly pay to Lenders the Debt at the time and in the manner provided in the Note, the Loan Agreement and this Mortgage, shall well and truly perform the Other Obligations as set forth in this Mortgage and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, 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 Secured Party pursuant to the provisions hereof shall survive any such payment or release.

## ARTICLE 2 - DEBT AND OBLIGATIONS SECURED

Section 2.1 INDEBTEDNESS. 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 Lenders 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"):

(a) the performance of all covenants, conditions, liabilities and obligations of Borrower contained in this Mortgage, the Note, the Loan Agreement and the other Loan Documents; and

(b) 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 this Mortgage, the Note, the Loan Agreement or any other Loan Documents.

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

Section 2.4 VARIABLE INTEREST RATE. The Loan secured by this Mortgage is a variable interest rate loan, as more particularly set forth in the Loan Agreement.

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## 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.

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; WASTE. The provisions of Section 10.1 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.

Section 3.5 INTENTIONALLY OMITTED.

Section 3.6 TITLE. Borrower represents and warrants that, subject only to the Permitted Encumbrances, Borrower owns good, insurable and marketable fee title to the Real Property and to all easements and rights benefiting the Property and has the right, power and authority to mortgage, encumber, give, grant, bargain, sell, alien, setoff, convey, confirm, pledge, assign, and hypothecate the Property. Borrower has good title to the Personal Property, free and clear of all Liens whatsoever subject to the Permitted Encumbrances. Borrower will preserve its interest in and title to the Property and will forever warrant and defend the same to Secured Party against any and all claims made by, through or under Borrower and will forever warrant and defend the validity and priority of the lien and security interest created herein against the claims of all Persons whomsoever claiming by, through or under Borrower. The foregoing warranty of title shall survive the foreclosure of this Mortgage and shall inure to the benefit of and be enforceable by Secured Party in the event Secured Party acquires title to the Property pursuant to any foreclosure. In addition, there are no outstanding options or rights of first refusal to purchase the Property or Borrower's ownership thereof. This Mortgage, upon its due execution and proper recordation, is and will remain a valid and enforceable (and, with respect to all personalty as to which security interests may be granted under and are governed by the UCC, upon proper recordation and the filing of a financing statement) perfected Lien on and security interest on Borrower's right, title and interest in and to the Real Property, free and clear of all encumbrances, and there are no liens on the Real Property having priority over the lien of this Mortgage, subject to the Permitted Encumbrances.

Section 3.7 PAYMENT FOR LABOR AND MATERIALS. (a) The provisions of Section 5.8.12 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.

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(b) After prior written notice to Administrative 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 of the amounts permitted to be contested pursuant to Section 5.8.12 of the Loan Agreement (the "**Labor and Material Costs**"), provided that (i) no Event of Default has occurred and is continuing under the Loan Agreement, the Note, this Mortgage or any of the other Loan Documents, (ii) Borrower is permitted to do so under the provisions of any other mortgage, deed of trust or deed to secure debt affecting the Property, (iii) such proceeding shall suspend the collection of the Labor and Material Costs from Borrower and from the Property or Borrower shall have paid all of the Labor and Material Costs under protest, (iv) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder, (v) neither the Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, canceled or lost, and (vi) Borrower shall have furnished the security as may be required in the proceeding, or as may be requested by Administrative Agent to insure the payment of any contested Labor and Material Costs, together with all interest and penalties thereon.

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.** Borrower shall not change Borrower's name or identity (including its trade name or names) without first (a) notifying Administrative Agent of such change in writing at least thirty (30) days prior to the effective date of such change and (b) taking all action required by Administrative Agent for the purpose of perfecting or protecting the lien and security interest of Secured Party. Borrower shall promptly notify Administrative Agent in writing of any change in its organizational identification number. If Borrower does not now have an organizational identification number and later obtains one, Borrower shall promptly notify Administrative Agent in writing of such organizational identification number. Borrower shall execute and deliver to Administrative Agent, prior to or contemporaneously with the effective date of any such change, any financing statement or financing statement change required by Administrative Agent to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Secured Party, Borrower shall execute a certificate in form satisfactory to Secured Party listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

## ARTICLE 4 - OBLIGATIONS AND RELIANCES

Section 4.1 **RELATIONSHIP OF BORROWER AND SECURED PARTY.** The relationship between Borrower and Lenders is solely that of debtor and creditor, and Secured Party 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 Secured Party to be other than that of debtor and creditor. Nothing herein is intended to create a joint venture, partnership, tenancy-in-common, or

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joint tenancy relationship between Borrower and Secured Party nor to grant Secured Party any interest in the Property other than that of mortgagee, beneficiary or lender.

Section 4.2 NO RELIANCE ON SECURED PARTY. The general partners, officers, shareholders, members, principals and/or other beneficial owners of Borrower, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Borrower and Secured Party are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Secured Party's expertise, business acumen or advice in connection with the Property.

Section 4.3 NO SECURED PARTY OBLIGATIONS. (a) Notwithstanding the provisions of Subsections 1.1(h) and (m) or Section 1.2, Secured Party is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with 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 Secured Party 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, Secured Party 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 Secured Party.

Section 4.4 RELIANCE. Borrower recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Mortgage and the other Loan Documents, Secured Party is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article IV of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Secured Party; that such reliance existed on the part of Secured Party prior to the date hereof, that the warranties and representations are a material inducement to the Lenders in making the Loan; and that the Lenders 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 IV 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 Secured Party 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,

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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 security instrument 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 and Borrower shall hold harmless and indemnify Secured Party against any liability incurred by reason of the imposition of any tax on the issuance, making, filing, registration or recording of this Agreement.

Section 5.2 FURTHER ACTS, ETC. Borrower will, at the cost of Borrower, and without expense to Secured Party, within not more than ten (10) days after demand by Secured Party, 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 Secured Party shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Secured Party the property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Secured Party, 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, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Secured Party to execute in the name of Borrower or without the signature of Borrower to the extent Secured Party 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 Secured Party in the Property. Borrower also ratifies its authorization for Secured Party 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 Secured Party an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting, any and all rights and remedies available to Secured Party at law and in equity, including without limitation such rights and remedies available to Secured Party pursuant to this Section 5.2. To the extent not prohibited by applicable law, Borrower hereby ratifies all acts Secured Party 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 MAINTENANCE OF VALIDITY. Borrower shall, upon ten (10) Business Days' demand therefor, execute, acknowledge, deliver and cause to be recorded or filed, any instrument necessary to publish notice or protect, perfect, preserve, continue, extend or maintain the validity, perfection, priority and effectiveness of this Mortgage and, to the extent applicable, the other Loan Documents. Unless otherwise permitted in this Mortgage and the other Loan Documents, Borrower will not take any action, will not permit action to be taken by others and will not omit to take any action, nor will Borrower give any notice, approval or consent or exercise, waive or modify any rights under or in respect of the Permitted Encumbrances, which action, omission, notice, approval, consent or exercise, waiver or modification of rights would release Borrower from, or materially reduce any of Borrower's obligations or liabilities under, or would result in the termination, surrender or assignment of, or the amendment or modification of, any of the Loan Documents, or would impair the validity of this Mortgage or any of the other Loan Documents, or could have a Material Adverse Effect, without Administrative Agent's consent, and any attempt to do any of the foregoing without such consent shall be of no force and effect.

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Section 5.4 CHANGES IN TAX, DEBT, CREDIT AND DOCUMENTARY STAMP LAWS. (a) The provisions of Section 5.1.22 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.

(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, Administrative Agent shall have the option, by written notice of not less than one hundred fifty (150) days, to declare the Debt immediately due and payable.

(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.

Section 5.5 SPLITTING OF MORTGAGE. The provisions of Sections 2.15 and 14.1 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.

Section 5.6 REPLACEMENT DOCUMENTS. Upon receipt of an affidavit of an officer of Administrative 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, at no cost or expense to Borrower, an identical Note or an identical replacement of such 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.

## ARTICLE 6 - DUE ON SALE/ENCUMBRANCE

Section 6.1 ADMINISTRATIVE AGENT RELIANCE. Borrower acknowledges that Secured Party has examined and relied on the experience of Borrower and its general partners, members, principals and (if Borrower is a trust) beneficial owners, as applicable, 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 Secured Party 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, Secured Party can recover the Debt by a sale of the Property.

Section 6.2 NO TRANSFER. Borrower shall not permit or suffer any Transfer to occur, unless specifically permitted by Article VIII of the Loan Agreement or unless Administrative Agent shall consent thereto in writing in accordance with the Loan Documents.

Section 6.3 TRANSFER DEFINED. As used in this Article 6, "Transfer" shall have the meaning ascribed thereto in 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 Secured Party may take such action, without notice or demand, 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 Secured Party may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Secured Party:

- (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 in the event of a sale, by foreclosure or otherwise, of less than all of the Property, this Mortgage shall continue as a lien on the remaining portion of the Property;
- (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, to which appointment Borrower does hereby consent and such receiver or other official shall have all rights and powers permitted by applicable law and such other rights and powers as the court making such appointment may confer, but the appointment of such receiver or other official shall not impair or in any manner prejudice the rights of Secured Party to receive the Rent with respect to any of the Property pursuant to this Mortgage;
- (h) the license granted to Borrower under Section 1.2 hereof shall automatically be revoked and Secured Party may, and subject to and in accordance with applicable law, 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 to Borrower for trespass, damages

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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 Secured Party upon demand, and thereupon Secured Party 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 Secured Party 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 Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Secured Party, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Secured Party or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order, priority and proportions as Secured Party 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 Premiums and other expenses in connection with the Property, as well as just compensation for the services of Secured Party, its counsel, agent, and employees; provided, however, that nothing herein contained shall be construed as constituting Secured Party a "mortgagee in possession" in the absence of the taking of actual possession of the Property by Secured Party and in the exercise of the powers herein granted Secured Party, no liability shall be asserted or enforced against Secured Party, all such liability being expressly waived and released by Borrower;

(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 Secured Party 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 Secured Party at a convenient place acceptable to Secured Party. Any notice of sale, disposition or other intended action by Secured Party 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) Business 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 Secured Party 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 sole and absolute discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;



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- (iii) Interest on the unpaid principal balance of the Note;
  - (iv) Amortization of the unpaid principal balance of the Note; and
  - (v) All other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Loan Documents, including without limitation advances made by the Lenders pursuant to the terms of this Mortgage;
- (k) pursue such other remedies as Secured Party 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 Lender 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.** Upon the occurrence and during the continuance of an Event of Default, the purchase money, proceeds and avails of any disposition of the Property or any part thereof, or any other sums collected by Secured Party pursuant to the Note, this Mortgage or the other Loan Documents, may be applied by Secured Party to the payment of the Debt in such priority and proportions as Secured Party in its discretion shall deem proper.

**Section 7.3 RIGHT TO CURE DEFAULTS.** Upon the occurrence and during the continuance of any Event of Default, Secured Party 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 Secured Party may deem necessary to protect the security hereof. Secured Party is authorized to enter upon the Property for such purposes, (subject to the rights of each tenant under its respective lease) 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 Secured Party's out-of-pocket 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 Secured Party upon demand. All such out-of-pocket costs and expenses actually incurred by Secured Party in remedying such Event of Default or in appearing in, defending, or bringing any such action or proceeding shall bear interest at the Default Rate, for the period beginning on the first day after notice from Administrative Agent that such cost or expense was incurred to the date of payment to Secured Party.

**Section 7.4 ACTIONS AND PROCEEDINGS.** Secured Party 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 Secured Party, in its discretion, decides should be brought to protect its interest in the Property.

**Section 7.5 RECOVERY OF SUMS REQUIRED TO BE PAID.** Secured Party shall have the right from time to time to take action permitted by applicable law to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not

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the balance of the Debt shall be due, and without prejudice to the right of Secured Party thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Borrower existing at the time such earlier action was commenced.

Section 7.6 EXAMINATION OF BOOKS AND RECORDS. At reasonable times and upon reasonable notice, Secured Party, 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. Secured Party 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, Secured Party, 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 Secured Party 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 Secured Party 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 Secured Party 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, and Secured Party 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 Secured Party 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 Secured Party's possession.

(c) Secured Party may resort for the payment of the Debt to any other security held by Secured Party in such order and manner as Secured Party, in its discretion, may elect. Secured Party may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Secured Party thereafter to foreclose this Mortgage. The rights of Secured Party under this Mortgage shall be separate, distinct and cumulative and none shall be given effect to the exclusion of the others. No act of Secured Party shall be construed as an election to proceed under any one provision herein to the exclusion of any other provision. Secured Party 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. Secured Party may release any portion of the Property for such consideration as Secured Party may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority

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of this Mortgage, 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 Secured Party for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Secured Party may require without being accountable for so doing to any other lienholder. Administrative Agent shall be authorized to execute any and all such releases. This Mortgage shall continue as a lien and security interest in the remaining portion of the Property.

Section 7.9 RECOURSE AND CHOICE OF REMEDIES. Notwithstanding any other provision of this Mortgage or the Loan Agreement, including, without limitation, Sections 18.1(f) and 18.2 of the Loan Agreement, Secured Party and other Indemnified Parties are entitled to enforce the obligations of Borrower, any guarantor and indemnitor contained in Sections 18.1(f) and 18.2 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 Secured Party commences a foreclosure action against the Property, Secured Party 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 Sections 18.1(f) and 18.2 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 Sections 18.1(f) and 18.2 of the Loan Agreement. The liability of Borrower and any guarantor or indemnitor with respect to the Loan pursuant to Sections 18.1(f) and 18.2 of the Loan Agreement is not limited to the original principal amount of the Note. Notwithstanding the foregoing, nothing herein shall inhibit or prevent Secured Party 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 Sections 18.1(f) and 18.2 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. In addition, Secured Party shall have the right but not the obligation to join and participate in, as a party if it so elects, any administrative or judicial proceedings or actions initiated in connection with any matter addressed in the Environmental Indemnity.

Section 7.10 RIGHT OF ENTRY. The provisions of Section 5.1.17 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.

Section 7.11 BANKRUPTCY. (a) Upon the occurrence and during the continuance of an Event of Default, Secured Party shall have the right, and Borrower hereby assigns to Secured Party its right and irrevocably constitutes and appoints Administrative 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.

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(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 365(a) of the Bankruptcy Code, then Borrower shall give Administrative 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. Administrative Agent shall have the right, but not the obligation, to serve upon Borrower within such ten-day period a notice stating that (i) Administrative Agent demands that Borrower assume and assign the Lease to Secured Party pursuant to Section 365 of the Bankruptcy Code and (ii) Secured Party covenants to cure or provide adequate assurance of future performance under the Lease. If Administrative 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 Secured Party of the covenant provided for in clause (ii) of the preceding sentence

Section 7.12 VIOLATION OF LAWS. If the Property is not in material compliance with Legal Requirements and Borrower is not taking appropriate action to remedy such non-compliance within a reasonable period after notice from Secured Party, Secured Party may impose additional reasonable requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

## ARTICLE 8 - INDEMNIFICATION

Section 8.1 GENERAL INDEMNIFICATION. The provisions of Section 19.12 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.

Section 8.2 MORTGAGE AND/OR INTANGIBLE TAX. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax on the making and/or recording of this Mortgage, the Note or any of the other Loan Documents, but excluding any income, franchise or other similar taxes.

Section 8.3 ERISA INDEMNIFICATION. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses (including, without limitation, attorneys' fees and costs incurred in the investigation, defense, and settlement of Losses incurred in correcting any prohibited transaction or in the sale of a prohibited loan, and in obtaining any individual prohibited transaction exemption under ERISA that may be required, in Secured Party's sole discretion) that Secured Party incurs, directly or indirectly, as a result of a default under Section 5.1.29 of the Loan Agreement.

Section 8.4 DUTY TO DEFEND; ATTORNEYS' FEES AND OTHER FEES AND EXPENSES. The provisions of Section 19.12(b) 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.

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## ARTICLE 9 - WAIVERS

Section 9.1 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 Secured Party 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 9.2 MARSHALLING AND OTHER MATTERS. To the extent permitted by applicable law, Borrower hereby waives the benefit of all appraisements, 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 9.3 WAIVER OF NOTICE. To the extent permitted by applicable law, Borrower shall not be entitled to any notices of any nature whatsoever from Administrative Agent except with respect to matters for which this Mortgage or the other Loan Documents specifically and expressly provides for the giving of notice by Administrative Agent to Borrower and except with respect to matters for which Administrative Agent is required by applicable law to give notice, and Borrower hereby expressly waives the right to receive any notice from Administrative Agent with respect to any matter for which this Mortgage or the other Loan Documents does not specifically and expressly provide for the giving of notice by Administrative Agent to Borrower.

Section 9.4 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 the Obligations.

Section 9.5 SURVIVAL. The indemnifications made pursuant to Section 5.1, Article 8 and Section 15.1(b) herein and the representations and warranties, covenants, and other obligations arising under this Mortgage shall survive the making by Lenders of the Loan and the execution and delivery to Administrative Agent of the Note, and shall continue in full force and effect so long as all or any of the Debt is outstanding and unpaid unless a longer period is expressly set forth herein or in the other Loan Documents. Whenever in this Mortgage any of the parties hereto is referred to, such reference shall be deemed to include the legal representatives, successors and assigns of such party. All covenants, promises and agreements in this Mortgage, by or on behalf of Borrower, shall inure to the benefit of the legal representatives, successors and permitted assigns of Secured Party.

## ARTICLE 10 - EXCULPATION

The provisions of Article XVIII 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 11 - NOTICES

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All notices or other written communications hereunder shall be delivered in accordance with Section 19.6 of the Loan Agreement.

## ARTICLE 12 - APPLICABLE LAW

Section 12.1 **GOVERNING LAW.** (a) THIS MORTGAGE WAS NEGOTIATED IN THE STATE OF NEW YORK, THE LOAN WAS MADE BY ADMINISTRATIVE AGENT AND THE PROCEEDS OF THE LOAN DELIVERED PURSUANT HERETO WERE DISBURSED FROM THE STATE OF NEW YORK, WHICH STATE THE PARTIES IRREVOCABLY AND UNCONDITIONALLY AGREE HAS A SUBSTANTIAL RELATIONSHIP TO THE PARTIES AND TO THE UNDERLYING TRANSACTION EMBODIED HEREBY, AND IN ALL RESPECTS, INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, MATTERS OF CONSTRUCTION, VALIDITY AND PERFORMANCE, EACH AND ALL OF THIS AGREEMENT, THE NOTE, THE OTHER LOAN DOCUMENTS, AND THE OBLIGATIONS ARISING HEREUNDER AND THEREUNDER 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 TIMES THE ATTACHMENT, CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CREATED HEREUNDER IN FAVOR OF ADMINISTRATIVE AGENT AND LENDERS IN RESPECT OF REAL PROPERTY SHALL BE GOVERNED BY AND CONSTRUED ACCORDING TO THE LAW OF THE STATE IN WHICH SUCH REAL PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, TO THE FULLEST EXTENT PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK SHALL GOVERN THE CONSTRUCTION, VALIDITY AND ENFORCEABILITY OF THIS AGREEMENT, THE NOTE AND THE LOAN AND ALL OF THE OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. 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 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.

OTHER THAN ANY ACTION IN RESPECT OF THE ATTACHMENT, CREATION, PERFECTION OR ENFORCEMENT OF THE LIENS OR SECURITY INTERESTS CREATED HEREUNDER WHICH SHALL BE INSTITUTED IN ANY FEDERAL OR STATE COURT IN THE CITY OF CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, ANY LEGAL SUIT, ACTION OR PROCEEDING AGAINST SECURED PARTY OR BORROWER ARISING OUT OF OR RELATING TO THIS MORTGAGE SHALL 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 AND SECURED PARTY EACH WAIVES ANY OBJECTIONS WHICH IT MAY NOW OR

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HEREAFTER HAVE BASED ON VENUE AND/OR FORUM NON CONVENIENS OF ANY SUCH SUIT, ACTION OR PROCEEDING, AND BORROWER AND SECURED PARTY EACH HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY SUCH COURT IN ANY SUIT, ACTION OR PROCEEDING. BORROWER AGREES THAT SERVICE OF PROCESS UPON BORROWER AT THE ADDRESS SET FORTH IN THE LOAN AGREEMENT 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 THE STATE OF NEW YORK. BORROWER ACKNOWLEDGES AND AGREES THAT BORROWER SHALL NOT CONTEST THE VALIDITY OR LEGALITY OF SERVICE OF PROCESS UPON BORROWER IN ACCORDANCE WITH THE FOREGOING IN ANY LEGAL PROCEEDING. BORROWER (I) SHALL GIVE PROMPT NOTICE TO ADMINISTRATIVE AGENT OF ANY CHANGED ADDRESS OF ITS AUTHORIZED AGENT SET FORTH IN THE LOAN AGREEMENT, (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 AN AUTHORIZED AGENT IF BORROWER CEASES TO HAVE AN OFFICE IN NEW YORK, NEW YORK OR IS DISSOLVED WITHOUT LEAVING A SUCCESSOR.

Section 12.2 USURY LAWS. Notwithstanding anything to the contrary, (a) all agreements and communications between Borrower and Secured Party are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Secured Party 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 Secured Party, and (c) if through any contingency or event, Secured Party 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 Secured Party, or if there is no such indebtedness, shall immediately be returned to Borrower.

Section 12.3 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 13 - DEFINITIONS

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 "each Borrower and any subsequent owner or owners of the

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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 promissory notes (including, without limitation, the Note as defined in the Loan Agreement) 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 attorney’s, paralegal’s and law clerk’s fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Secured Party in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder. In the event of any conflict or inconsistency between the provisions of the Loan Agreement and the provisions of this Mortgage, the provisions of the Loan Agreement shall control and be binding.

## ARTICLE 14 - MISCELLANEOUS PROVISIONS

Section 14.1 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 Secured Party, 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 14.2 SUCCESSORS AND ASSIGNS. This Mortgage shall be binding upon and inure to the benefit of Borrower and Secured Party and their respective successors and assigns forever.

Section 14.3 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 14.4 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 14.5 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 14.6 SUBROGATION. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness of Borrower heretofore existing against the Property, then, to the extent of the funds so used, Secured Party 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 Secured Party 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.



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Section 14.7 ENTIRE AGREEMENT. The Note, the Loan Agreement, this Mortgage and the other Loan Documents constitute the entire understanding and agreement between Borrower and Secured Party with respect to the transactions arising in connection with the Debt and supersede all prior written or oral understandings and agreements between Borrower and Secured Party 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 were not, and no persons are or were authorized by Secured Party 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 14.8 LIMITATION ON ADMINISTRATIVE 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 Secured Party, nor shall it operate to make Secured Party 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. Subject to Section 7.1(h) hereof, nothing herein contained shall be construed as constituting Secured Party a "mortgagee in possession."

Section 14.9 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 14.10 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.

## ARTICLE 15 - ILLINOIS PROVISIONS

Section 15.1 Conflict. In the event of any inconsistencies between the terms and conditions of this Article 15 and the terms and conditions of the remaining sections of this Mortgage, the terms and conditions of this Article 15 shall control.

Section 15.2 Business Purpose. The proceeds of the indebtedness secured hereby shall be used solely for business purposes and in furtherance of the regular business affairs of Borrower, and the entire principal obligation secured by this Mortgage constitutes (i) a "business loan" as that term is defined in, and for all purposes of, 815 ILCS 205/4 (1) (c), and (ii) a "loan secured by a mortgage on real estate" within the purview and operation of 815 ILCS 205/4(1)(l).

Section 15.3 Maximum Secured. This Mortgage secures the payment of the entire indebtedness secured hereby; provided, however that the total amount secured by this Mortgage shall not exceed an amount equal to two hundred percent (200%) of the face amount of the Note.

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Section 15.4 Maturity; Interest. The Note has a maturity date of March 9, 2026 as may be extended pursuant to the terms of the Loan Agreement, and bears interest at a variable rate determined in accordance with the terms and conditions of the Loan Agreement.

Section 15.5 Collateral Protection Act. Pursuant to the terms of the Collateral Protection Act (815 ILCS 180/1 et seq.), Borrower is hereby notified that unless Borrower provides Administrative Agent with evidence of the insurance coverage required by this Mortgage, Administrative Agent may purchase insurance at Administrative Agent's expense to protect Borrower's interests in the Premises, which insurance may, but need not, protect the interests of Borrower. The coverage purchased by Administrative Agent may not pay any claim made by Borrower or any claim made against Borrower in connection with the Premises. Borrower may later cancel any insurance purchased by Administrative Agent, but only after providing Administrative Agent with evidence that Borrower has obtained the insurance as required hereunder. If Administrative Agent purchases insurance, the Borrower will be responsible for the costs of such insurance, including interest and any other charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the total obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Borrower may be able to obtain for itself.

Section 15.6 Illinois Mortgage Foreclosure Law. It is the intention of Borrower and Administrative Agent that the enforcement of the terms and provisions of this Mortgage shall be accomplished in accordance with the Illinois Mortgage Foreclosure Law (the "Act"), 735 ILCS 5/15-1101 et seq., and that 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 the Act. If any provision of this Mortgage shall grant to Administrative Agent any rights or remedies which are more limited than the rights that would otherwise be vested in Administrative Agent under the Act in the absence of such provision, Administrative Agent shall be vested with the rights granted in the Act to the full extent permitted by law. With respect to such Act, Borrower agrees and covenants that:

(a) Borrower and Administrative 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, Administrative Agent shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference;

(b) In addition to any provision of this Mortgage authorizing the Administrative Agent to take or be placed in possession of the Property, or for the appointment of a receiver, Administrative Agent shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in the possession of the Property or at its request to have a receiver appointed, and such receiver, or Administrative Agent, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties and provisions set forth in Sections 15-1701 and 15-1703 of the Act;

(c) Borrower acknowledges that the Property does not constitute "agricultural real estate", as said term is defined in Section 15-1201 of the Act or "residential real estate" as defined in Section 15-1219 of the Act;

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(d) Borrower hereby voluntarily and knowingly waives its statutory rights to reinstatement and redemption pursuant to 735 ILCS Section 5/15-1601(b) on its own behalf and on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Borrower and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof;

(e) Without limiting the generality of the foregoing, all expenses incurred by Administrative 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 enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure;

(f) All advances, disbursements and expenditures made or incurred by Administrative Agent before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage, the Loan Agreement, any other Loan Document or by the Act (collectively "**Protective Advances**"), shall have the benefit of all applicable provisions of the Act;

(g) All Protective Advances shall be additional indebtedness secured by this Mortgage, and shall become due and payable within ten (10) Business Days after written demand and with interest thereon from the date of the advance until paid at the rate of interest payable after default under the terms of the Loan Agreement; and

(h) This Mortgage shall be a lien for all Protective Advances from the time this Mortgage is recorded pursuant to Subsection (b) (5) of Section 5/15-1302 of the Act, all as more fully provided therein.

Section 15.7 Fixture Filing. This Mortgage constitutes a fixture filing under the Illinois Uniform Commercial Code and any other applicable Uniform Commercial Code, as modified and recodified from time to time, with respect to all fixtures owned by Borrower and now or hereafter affixed or attached to, or installed in, or used in connection with, the Property, together with all accessions, replacements and substitutions thereto or therefor and the proceeds thereof.

The name of the Debtor is:

850 LAKE SHORE PROPERTY, LLC

The mailing address of the Debtor is:

2200 Biscayne Boulevard  
Miami, Florida 33137  
Attention: General Counsel

The name of the Secured Party is:

CENTERBRIDGE MARTELLO ADVISORS, LLC

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The address of the Secured Party is:

375 Park Avenue  
11<sup>th</sup> Floor  
New York, New York 10152

Section 15.8 Releases. ADMINISTRATIVE AGENT IS AUTHORIZED TO EXECUTE PARTIAL RELEASES, SATISFACTIONS, JOINDERS, CONSENTS, SUBORDINATIONS AND OTHER INSTRUMENTS PERTAINING TO THIS MORTGAGE, AS MORTGAGEE, WHICH WILL BE BINDING ON THE OTHER SECURED PARTIES, WITHOUT THE EXECUTION OF THE OTHER SECURED PARTIES, ETC.

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

BORROWER:

**850 LAKE SHORE PROPERTY, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Name: Jonathan Newberg  
Title: Vice President

Property of Cook County Clerk's Office

**ACKNOWLEDGMENT**

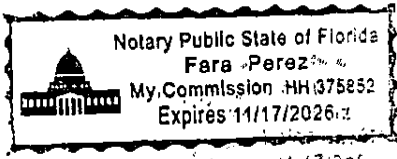
STATE OF Florida           §  
  §  
COUNTY OF Miami-Dade   §

The instrument was acknowledged before me on ~~February~~ March 5, 2024, by Jonathan Newberg, the Vice President of 850 Lake Shore Property, LLC, a Delaware limited liability company and on behalf of such limited liability company.

Notary Public in the and for the State of Illinois  
My Commission Expires: 11/17/2026

[NOTARY SEAL]

(Seal)



[Signature Page to Mortgage]

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## EXHIBIT A

### LEGAL DESCRIPTION

#### PARCEL 1:

THAT PART OF LOTS 48 AND 98 IN LAKE SHORE DRIVE ADDITION TO CHICAGO, A SUBDIVISION OF PART OF BLOCK 14 AND 20 IN CANAL TRUSTEES' SUBDIVISION OF THE SOUTH FRACTIONAL 1/4 OF SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, TOGETHER WITH THAT PART OF LOTS "B" AND "C" IN THE SUBDIVISION OF LOTS 43, 44, 45, 46 AND 47 IN LAKE SHORE DRIVE ADDITION TO CHICAGO AFORESAID, IN COOK COUNTY, ILLINOIS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT "B" AFORESAID, BEING ALSO THE INTERSECTION OF THE SOUTH LINE OF EAST CHESTNUT STREET AND THE WESTERLY LINE OF NORTH LAKE SHORE DRIVE; THENCE WEST ALONG SAID SOUTH LINE OF EAST CHESTNUT STREET, 228.15 FEET TO ITS INTERSECTION WITH THE NORTHERLY EXTENSION OF THE WEST FACE OF A 6-STORY BUILDING; THENCE SOUTH ALONG SAID WEST FACE AT AN ANGLE OF 90 DEGREES, 01 MINUTE, 40 SECONDS TO THE RIGHT FROM SAID SOUTH LINE OF EAST CHESTNUT STREET, 107.24 FEET TO THE SOUTH LINE OF SAID LOTS 48 AND "C"; THENCE EAST ALONG THE SOUTH LINE OF LOTS 48 AND "C", 161.69 FEET TO THE NORTHWEST CORNER OF LOT 98 AFORESAID; THENCE SOUTHEASTERLY ALONG THE WESTERLY LINE OF SAID LOT 98, AT AN ANGLE OF 108 DEGREES, 01 MINUTE, 45 SECONDS TO THE LEFT FROM SAME SOUTH LINE OF LOT "C", 38.14 FEET TO A LINE 71.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF LOT 98 AFORESAID; THENCE EAST ALONG SAID PARALLEL LINE, 122.04 FEET TO THE EASTERLY LINE OF SAID LOT 98, BEING ALSO THE WESTERLY LINE OF NORTH LAKE SHORE DRIVE; THENCE NORTHWESTERLY ALONG SAID WESTERLY LINE OF LAKE SHORE DRIVE, 158.50 FEET TO THE POINT OF BEGINNING.

#### PARCEL 2:

PERPETUAL, NON-EXCLUSIVE EASEMENT AS CREATED BY RECIPROCAL EASEMENT AGREEMENT MADE BY AND BETWEEN NORTHWESTERN UNIVERSITY AND 840 LAKE SHORE DRIVE, L.L.C., RECORDED SEPTEMBER 11, 2003 AS DOCUMENT NUMBER 0325432160, FOR INGRESS AND EGRESS BY PERSONS, MATERIALS AND EQUIPMENT ON, OVER, ACROSS, IN AND THROUGH THE "840 PROPERTY", AS DEFINED THEREIN.

#### PARCEL 3:

PERPETUAL, NON-EXCLUSIVE EASEMENT AS CREATED BY RECIPROCAL EASEMENT AGREEMENT MADE BY AND BETWEEN NORTHWESTERN UNIVERSITY AND 270 EAST PEARSON, L.L.C., RECORDED MAY 20, 2004 AS DOCUMENT NUMBER 0414131099, FOR INGRESS AND EGRESS BY PERSONS, MATERIALS AND EQUIPMENT ON, OVER, ACROSS, IN AND THROUGH THE "UNIMPROVED AREA", AS DEFINED THEREIN AND AN EASEMENT FOR DIVIDERS AND THE POOL DUCT TO ENCROACH ON, OVER, AND ACROSS THE "UNIMPROVED AREA" IN SUBSTANTIALLY THE SAME MANNER AND LOCATION AS THE DIVIDERS AND POOL DUCT ENCROACH AS OF THE DATE THEREIN AND TO AFFIX THE DIVIDERS AND POOL DUCT TO THE NORTH FACADE OF THE 270 BUILDING (AND ANY REPLACEMENT THEREOF) IN SUBSTANTIALLY THE SAME MANNER AND LOCATION AS THE DIVIDERS AND POOL DUCT ARE AFFIXED TO THE NORTH FACADE OF THE 270 BUILDING AS OF THE DATE THEREIN.