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## Property Address:

1447 and 1515 Sheridan Road; 1609 and 1705 10<sup>th</sup> Street; and 1625 Sheridan Road, Units C-1, C-2, C-3, C-4, C-5 and C-6, Wilmette, Illinois 60091



\*2411008001\*

Doc# 2411008001 Fee \$88.00

ILRHSP FEE:\$18.00 RPRF FEE:\$1.00

BLANKET FEE:\$75.00

KAREN A. YARBROUGH

COOK COUNTY CLERK'S OFFICE

DATE: 4/19/2024 9:21 AM

PAGE: 1 OF 40

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

THIS AMENDED AND RESTATED CONSTRUCTION MORTGAGE, SECURITY AGREEMENT, FIXTURE FILING AND ASSIGNMENT OF LEASES AND RENTS dated as of April 17, 2024 (this "Mortgage"), is executed by PLAZA DEL LAGO OWNER LLC, a Delaware limited liability company ("SC Borrower"), PLAZA DEL LAGO CONDOS LLC, a Delaware limited liability company ("Condo Borrower") PLAZA DEL LAGO VP LLC, a Delaware limited liability company ("VP Borrower" and, together with SC Borrower and Condo Borrower, individually and collectively as the context may require, jointly and severally, the "Borrower"), to and for the benefit of SILICON VALLEY BANK, A DIVISION OF FIRST-CITIZENS BANK & TRUST COMPANY, and its successors and assigns as administrative agent acting for itself and the Banks (as successor to Old Second

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National Bank, a national banking association in such capacity, "Administrative Agent") for itself and those certain financial institutions that are, or may become from time to time, parties to the Loan Agreement (hereinafter defined) (collectively, the "Lenders").

## RECITALS:

A. Pursuant to the terms and conditions contained in that certain Amended and Restated Syndicated Construction Loan Agreement dated as of even date herewith, executed by and among the Borrower, the Administrative Agent and the Lenders (the "Loan Agreement"), the Lenders have agreed to loan to the Borrower the principal amount of Sixty-Five Million and 00/100 Dollars (\$65,000,000.00) (the "Loan"). All initial capitalized terms not otherwise defined herein shall have the meanings given such terms in the Loan Agreement. The Loan shall be evidenced by one or more certain Amended and Restated Promissory Notes of even date herewith (as amended, restated or replaced from time to time, each a "Note" and collectively, the "Notes"), executed by the Borrower and made payable to the order of each Lender in the aggregate principal amount of the Loan and due on the Maturity Date, except as may be accelerated pursuant to the terms of this Mortgage or of any other document or instrument now or hereafter given to evidence or secure the payment of the Notes or delivered to induce the Lenders to disburse the proceeds of the Loan (the Notes and the Loan Agreement, together with such other documents, as amended, restated or replaced from time to time as permitted thereunder, being collectively referred to herein as the "Loan Documents").

B. A condition precedent to the Lenders' extension of the Loan to the Borrower is the execution and delivery by the Borrower of this Mortgage.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Borrower agrees as follows:

## AGREEMENTS:

Each Borrower hereby mortgages, grants, assigns, remises, releases, warrants and conveys to the Administrative Agent, its successors and assigns, for the benefit of the Lenders, and grants to the Administrative Agent for the benefit of the Lenders, a security interest in, such Borrower's respective interests in the following described property, rights and interests (referred to collectively herein as the "Mortgaged Property"), all of which property, rights and interests are hereby pledged primarily and on a parity with the Land (as defined below) and not secondarily:

(a) The real estate located in the County of Cook, State of Illinois and legally described on Exhibit A attached hereto and made a part hereof (the "Land");

(b) Those certain condominium units described on Exhibit A attached hereto (collectively, the "Condominium Unit"), together with Condo Borrower's undivided interest in the common elements and any applicable limited common elements, all as more particularly described in that certain Amended and Restated Declaration of Condominium Ownership recorded December 19, 2000 as Document No. 00995557, as amended by a certain Amendment to Amended and Restated Declaration of Condominium Ownership recorded March 25, 2002 as Document No. 0020332730, a certain Amendment to Amended and Restated Declaration of Condominium Ownership

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recorded April 14, 2004 as Document No. 0410532068, a certain Third Amendment to Amended and Restated Declaration of Condominium Ownership recorded April 18, 2014 as Document No. 1410834092 (as affected by a Scrivener's Affidavit recorded March 7, 2018 as Document No. 1806613065), a certain Fourth Amendment to Amended and Restated Declaration of Condominium Ownership recorded August 21, 2020 as Document No. 2023406007, and a certain Amendment to Amended and Restated Declaration of Condominium Ownership recorded May 25, 2023 as Document No. 2314534047 (collectively, as the same may be further amended, restated or otherwise modified from time to time, the "Declaration"), together with all rights, privileges, tenements, hereditaments, appurtenances, easements, including, but not limited to, all of Condo Borrower's right, title and interest in, to and under the Declaration, rights and easements for access and egress, utility connections and other rights now or hereafter appurtenant thereto, including, but not limited to all Assigned Rights (as defined below);

(c) All improvements of every nature whatsoever now or hereafter situated on the Land, and all fixtures and personal property of every nature whatsoever now or hereafter owned by the Borrower and located on, or used in connection with the Land, the Condominium Unit or the improvements thereon, or in connection with any construction thereon, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing and all of the right, title and interest of the Borrower in and to any such personal property or fixtures together with the benefit of any deposits or payments now or hereafter made on such personal property or fixtures by the Borrower or on its behalf (the "Improvements");

(d) All easements, rights of way, gores of real estate, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, rights, titles, interests, privileges, liberties, tenements, hereditaments and appurtenances whatsoever, in any way now or hereafter belonging, relating or appertaining to the Land or the Condominium Unit, and the reversions, remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever, at law as well as in equity, of the Borrower of, in and to the same;

(e) All rents, revenues, issues, profits, proceeds, income, royalties, Letter of Credit Rights (as defined in the Uniform Commercial Code of the State of Illinois (the "Code") in effect from time to time), escrows, security deposits, impounds, reserves, tax refunds and other rights to monies from the Mortgaged Property and/or the businesses and operations conducted by the Borrower thereon, to be applied against the Indebtedness (as hereinafter defined); provided, however, that the Borrower, so long as no Event of Default (as hereinafter defined) has occurred and is continuing hereunder, may collect rent as it becomes due, but not more than one (1) month in advance thereof;

(f) All interest of the Borrower in all leases now or hereafter on the Mortgaged Property, whether written or oral (each, a "Lease", and collectively, the "Leases"), together with all security therefor and all monies payable thereunder, subject, however, to the conditional permission hereinabove given to the Borrower to collect the rentals under any such Lease;

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(g) All fixtures and articles of personal property now or hereafter owned by the Borrower and forming a part of or used in connection with the Land, the Condominium Unit or the Improvements, including, but without limitation, any and all air conditioners, antennae, appliances, apparatus, awnings, basins, bathtubs, bidets, boilers, bookcases, cabinets, carpets, computer hardware and software used in the operation of the Mortgaged Property, coolers, curtains, dehumidifiers, disposals, doors, drapes, dryers, ducts, dynamos, elevators, engines, equipment, escalators, exercise equipment, fans, fittings, floor coverings, furnaces, furnishings, furniture, hardware, heaters, humidifiers, incinerators, lighting, machinery, motors, ovens, pipes, plumbing, pumps, radiators, ranges, recreational facilities, refrigerators, screens, security systems, shades, shelving, sinks, sprinklers, stokers, stoves, toilets, ventilators, wall coverings, washers, windows, window coverings, wiring, and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to the Land, the Condominium Unit or the Improvements in any manner; it being mutually agreed that all of the aforesaid property owned by the Borrower and placed on the Land, the Condominium Unit or the Improvements, so far as permitted by law, shall be deemed to be fixtures, a part of the realty, and security for the Indebtedness; notwithstanding the agreement hereinabove expressed that certain articles of property form a part of the realty covered by this Mortgage and be appropriated to its use and deemed to be realty, to the extent that such agreement and declaration may not be effective and that any of said articles may constitute Goods (as defined in the Code), this instrument shall constitute a security agreement, creating a security interest in such goods, as collateral, in the Administrative Agent, as a secured party, and the Borrower, as debtor, all in accordance with the Code;

(h) All of the Borrower's interests in General Intangibles, including Payment Intangibles, but not including Software (each as defined in the Code), now owned or hereafter acquired and related to the Mortgaged Property, including, without limitation, all of the Borrower's right, title and interest in and to: (i) all agreements, licenses, permits and contracts to which the Borrower is or may become a party and which relate to the Mortgaged Property; (ii) all obligations and indebtedness owed to the Borrower thereunder; (iii) all intellectual property related to the Mortgaged Property; and (iv) all choses in action and causes of action relating to the Mortgaged Property;

(i) All of the Borrower's accounts now owned or hereafter created or acquired as relate to the Mortgaged Property and/or the businesses and operations conducted thereon, including, without limitation, all of the following now owned or hereafter created or acquired by the Borrower: (i) Accounts (as defined in the Code), contract rights book debts, notes, drafts, and other obligations or indebtedness owing to the Borrower arising from the sale, lease or exchange of goods or other property and/or the performance of services; (ii) the Borrower's rights in, to and under all purchase orders for goods, services or other property; (iii) the Borrower's rights to any goods, services or other property represented by any of the foregoing; (iv) monies due or to become due to the Borrower under all contracts for the sale, lease or exchange of goods or other property and/or the performance of services including the right to payment of any interest or finance charges in respect thereto (whether or not yet earned by performance on the part of the Borrower); (v) Securities, Investment Property, Financial Assets and Securities

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Entitlements (each as defined in the Code); (vi) proceeds of any of the foregoing and all collateral security and guaranties of any kind given by any person or entity with respect to any of the foregoing; and (vii) all warranties, guarantees, permits and licenses in favor of the Borrower with respect to the Mortgaged Property (the property, interests and rights described in Subsections (f), (g) and (h) above are collectively referred to herein as the “Collateral”); and

(j) All proceeds of the foregoing, including, without limitation, all judgments, awards of damages and settlements hereafter made resulting from condemnation proceeds or the taking of the Mortgaged Property or any portion thereof under the power of eminent domain, any proceeds of any policies of insurance, maintained with respect to the Mortgaged Property or proceeds of any sale, option or contract to sell the Mortgaged Property or any portion thereof.

“Assigned Rights” shall mean and include one hundred percent (100%) of Condo Borrower’s right, title, and interest in and to, derived from or otherwise: (i) arising under the Declaration, including, without limitation, any rights in and to the Association (as defined in the Declaration) and/or the Condominium Unit, and (ii) arising out of any agreement to sell any portion of the Condominium Unit. Assigned Rights shall also mean (a) all right, title and interest of Condo Borrower to any share of working capital reserves and/or other reserve held by the Association; (b) the undivided ownership appurtenant to the Condominium Unit in each of the common areas, limited common areas, and facilities of the Association, including, without limitation, an undivided beneficial ownership interest to and in the general common elements and limited common elements; (c) all rights, easements and appurtenances to the Condominium Unit set forth in the Declaration and/or otherwise granted to Condo Borrower; (d) all structures, improvements and fixtures in and/or servicing the Condominium Unit and/or used in connection therewith; and (e) all exclusive rights and/or limited exclusive rights appurtenant to the Condominium Unit and/or granted to Condo Borrower related to the Declaration and/or the common areas and facilities of the Association, if any.

TO HAVE AND TO HOLD the Mortgaged Property, unto the Administrative Agent, its successors and assigns, forever, for the purposes and upon the uses herein set forth together with all right to possession of the Mortgaged Property after the occurrence and during the continuance of any Event of Default; the Borrower hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

FOR THE PURPOSE OF SECURING: (i) the payment of the Loan and all interest, late charges, prepayment premium, if any, exit fee, if any, reimbursement obligations, fees and expenses for letters of credit issued by the Administrative Agent for the benefit of the Borrower, if any, and other indebtedness evidenced by or owing under the Notes, any of the other Loan Documents, and any application for letters of credit and master letter of credit agreement, together with any extensions, modifications, renewals or refinancings of any of the foregoing; (ii) the obligations and liabilities of the Borrower to the Administrative Agent, a Lender or any Affiliate of Administrative Agent or a Lender under and pursuant to any Hedging Agreement (as defined in the Loan Agreement); (iii) the performance and observance of the covenants, conditions, agreements, representations, warranties and other liabilities and obligations of the



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Borrower or any other obligor to or benefiting Administrative Agent or the Lenders which are evidenced or secured by or otherwise provided in the Notes, this Mortgage or any of the other Loan Documents; and (iv) the reimbursement to the Administrative Agent of any and all sums incurred, expended or advanced by the Administrative Agent pursuant to any term or provision of or constituting additional indebtedness under or secured by this Mortgage, any of the other Loan Documents or any Hedging Agreements that may evidence any Hedging Obligations of the Borrower owing at any time to the Administrative Agent, a Lender or any Affiliate of Administrative Agent or a Lender, or any application for letters of credit and master letter of credit agreement, with interest thereon as provided herein or therein (collectively, the "Indebtedness").

IT IS FURTHER UNDERSTOOD AND AGREED THAT:

1. Title. Each Borrower represents, warrants and covenants that (a) such Borrower is the holder of the fee simple title to its respective portion of the Mortgaged Property, free and clear of all liens and encumbrances, except those liens and encumbrances in favor of the Administrative Agent and as otherwise described on **Exhibit B** attached hereto and made a part hereof (the "Permitted Exceptions"); and (b) such Borrower has legal power and authority to mortgage and convey its respective portion of the Mortgaged Property.

2. Borrower's Covenants and Agreements.

(a) Payment of Indebtedness. The Borrower shall, prior to the expiration of any notice and/or cure or grace period: (i) pay the Indebtedness when due, and (ii) duly and punctually perform and observe all of the covenants and conditions to be performed or observed by the Borrower as provided in the Notes, the Loan Agreement, this Mortgage and the other Loan Documents.

(b) Compliance with Loan Agreement. Borrower will abide by and comply with and be governed and restricted by all of the terms, covenants, provisions, restrictions and agreements contained in the Loan Agreement, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns as permitted thereunder.

(c) Provisions of Loan Agreement. The proceeds of the Notes are to be disbursed by Administrative Agent and the Lenders in accordance with the terms contained in the Loan Agreement, the provisions of which are incorporated herein by reference to the same extent as if fully set forth herein. Borrower covenants that any and all monetary disbursements made in accordance with the Loan Agreement shall constitute adequate consideration to Borrower for the enforceability of this Mortgage and the Notes, and that all advances and indebtedness arising and accruing under the Loan Agreement from time to time, whether or not the total amount thereof may exceed the face amount of the Notes, shall be secured by this Mortgage; provided, however, that the total Indebtedness shall not in any event exceed two hundred percent of the stated principal amount of the Notes.

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(d) Construction Loan. The Notes evidence a debt created by one or more disbursements made by Lenders to Borrower to finance the cost of the construction of certain improvements upon the Land in accordance with the provisions of the Loan Agreement, and this Mortgage is a construction mortgage as such term is defined in Section 9-334(h) of the Code.

3. Payment of Taxes and Assessments. Subject to Borrower's right to contest as set forth in the Loan Agreement, and unless Administrative Agent is collecting deposits therefor as described in Section 5(b) below, the Borrower will pay when due and before any penalty attaches, all general and special taxes, assessments, water charges, sewer charges, and other fees, taxes, charges and assessments of every kind and nature whatsoever (all herein generally called "Taxes"), whether or not assessed against the Borrower, if applicable to the Mortgaged Property or any interest therein, or the Indebtedness, or any obligation or agreement secured hereby, subject to the Borrower's right to contest the same, as provided by the terms hereof; and the Borrower will, upon written request, furnish to the Administrative Agent duplicate receipts therefor within ten (10) days after the Administrative Agent's request.

4. Change in Tax Laws.

(a) If, by the laws of the United States of America, or of any state or municipality having jurisdiction over the Administrative Agent, the Lenders, the Borrower or the Mortgaged Property, any tax is imposed or becomes due in respect of the Notes or this Mortgage (excluding income, excise or franchise taxes imposed upon the Administrative Agent or any Lender, except as provided in Section 4(c) below), or any liens on the Mortgaged Property created thereby, then the Borrower shall pay such tax in the manner required by such law.

(b) If any law, statute, rule, regulation, order or court decree effects a deduction from the value of the Mortgaged Property for the purpose of taxation by creating any lien thereon, or imposing upon the Administrative Agent or any Lender any liability for the payment of all or any part of the Taxes required to be paid by the Borrower, or changing in any way the laws relating to the taxation of mortgages or deeds of trusts or debts secured by mortgages or deeds of trust or the interest of the Administrative Agent in the Mortgaged Property, or the manner of collection of Taxes so as to adversely affect this Mortgage, the Indebtedness, or the Administrative Agent or Lenders, then, and in any such event, the Borrower, upon demand by the Administrative Agent, shall pay such Taxes, or reimburse the Administrative Agent or Lenders therefor on demand, unless the Administrative Agent or Lenders determines, in the Administrative Agent's or Lenders' sole judgment, that such payment or reimbursement by the Borrower is unlawful or that the payment might, in the Administrative Agent's or a Lender's judgment, constitute usury or render the Indebtedness wholly or partially usurious; in which event the payment terms of the Loan will be revised by the Administrative Agent and Borrower so as not to be usurious.

(c) Nothing contained herein shall require the Borrower to pay any income, franchise or excise tax imposed upon Administrative Agent or the Lenders, excepting only such income, franchise or excise tax which may be levied against the income of

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Administrative Agent or the Lenders as a complete or partial substitute for Taxes required to be paid by the Borrower hereunder.

## 5. Deposits.

(a) Maintenance. Borrower shall complete any Improvements to be constructed on the Mortgaged Property pursuant to the Loan Agreement, free and clear of any and all liens, subject to Section 7. Borrower shall not abandon the Mortgaged Property, subject to Borrower's rights to complete certain improvements to the Mortgaged Property pursuant to the Loan Agreement, shall keep and maintain the Mortgaged Property in good condition, repair, maintenance and operating condition free from any waste or misuse, and shall promptly repair and restore any buildings, improvements or structures now or hereafter on the Mortgaged Property which may become damaged or destroyed to substantially their condition immediately prior to any such damage or destruction.

(b) Tax and Insurance Deposits. Upon the occurrence and during the continuance of an Event of Default, at Administrative Agent's sole discretion, the Borrower shall deposit with the Administrative Agent, on the first day of each month, a sum equal to one-twelfth (1/12th) of one hundred five percent (105.00%) of (a) the most recent ascertainable annual Taxes on the Mortgaged Property and (b) the insurance premiums for the policies of insurance required to be maintained in effect by the Borrower pursuant to the terms of the Loan Agreement (the "Premiums"). If requested by the Administrative Agent, the Borrower shall also deposit with the Administrative Agent an amount of money which, together with the aggregate of the monthly deposits to be made pursuant to the preceding sentence as of one month prior to the date on which the next installment of annual Taxes for the current calendar year become due, shall be sufficient to pay in full such installment of annual Taxes, as estimated by the Administrative Agent. Such deposits are to be held without allowance of interest and are to be used for the payment of Taxes and Premiums next due and payable when they become due. So long as no Event of Default shall be continuing, the Administrative Agent shall, at its option, pay such Taxes when the same become due and payable (upon submission of appropriate bills therefor from the Borrower) or shall release sufficient funds to the Borrower for the payment thereof. Administrative Agent shall release sufficient funds to pay the Premiums when due to the extent of funds available to do so. If the funds so deposited are insufficient to pay any such Taxes or Premiums for any year (or installments thereof, as applicable) when the same shall become due and payable, the Borrower shall, within ten (10) days after receipt of written demand therefor, deposit additional funds as may be necessary to pay such Taxes and Premiums in full. If the funds so deposited exceed the amount required to pay such Taxes and Premiums for any year, the excess shall be returned to Borrower less an amount equal to pay two months of Premiums. Said deposits need not be kept separate and apart from any other funds of the Administrative Agent. The Administrative Agent, in making any payment hereby authorized relating to Taxes, may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax, assessment, sale, forfeiture, tax lien or title or claim thereof.



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6. Intentionally Omitted.
7. Liens, Contest and Defense of Title.

(a) The Borrower shall not create or suffer or permit any lien, charge or encumbrance to attach to or be filed against the Mortgaged Property or any part thereof, or interest thereon, or any other rights and properties conveyed, mortgaged, transferred and granted hereunder (except for Permitted Exceptions), whether such lien, charge or encumbrance is on a parity, inferior or superior to the lien of this Mortgage, including liens for labor or materials with respect to the Mortgaged Property ("Mechanic's Liens").

(b) Notwithstanding paragraph (a) of this Section, the Borrower may in good faith and with reasonable diligence contest the validity or amount of any Mechanic's Liens and defer payment and discharge thereof during the pendency of such contest, provided that: (i) such contest shall prevent the sale or forfeiture of the Mortgaged Property, or any part thereof or any interest therein, to satisfy such Mechanic's Liens and shall not result in a forfeiture or impairment of the lien of this Mortgage; and (ii) within ten (10) days after the Borrower has been notified of the filing of any such Mechanic's Liens, the Borrower shall have notified the Administrative Agent in writing of the Borrower's intention to contest such Mechanic's Liens, or to cause such other party to contest such Mechanic's Liens, and shall have obtained a title insurance endorsement over such Mechanic's Liens in form and substance reasonably satisfactory to the Administrative Agent, insuring the Administrative Agent against loss or damage by reason of such Mechanic's Liens; provided that in lieu of such title insurance endorsement the Borrower may (i) bond over such Mechanic's Liens in an amount sufficient to release the Mechanic's Liens from the Mortgaged Property in accordance with the Illinois Mechanics Lien Act, 770 ILCS 60/38.1 and Section 7.7(c) of the Loan Agreement, or (ii) deposit and keep on deposit with the Administrative Agent (or such depositary as may be designated by the Administrative Agent) a sum of money sufficient, in the judgment of the Administrative Agent, to pay in full such Mechanic's Liens and all interest thereon. Any such deposits are to be held without any allowance of interest and may be used by the Administrative Agent in its sole discretion to protect the priority of this Mortgage. In case the Borrower shall fail to maintain such title insurance or deposit, or to prosecute or cause the prosecution of such contest with reasonable diligence, or to pay or cause to be paid the amount of the Mechanic's Lien, plus any interest finally determined to be due upon the conclusion of such contest; then the Administrative Agent may, at its option, apply any money and liquidate any securities then on deposit with the Administrative Agent (or other depositary designated by the Administrative Agent) in payment of or on account of such Mechanic's Liens, or that part thereof then unpaid, together with all interest thereon according to any written bill, notice or statement, without inquiring into the amount, validity or enforceability thereof. If the amount of money so deposited shall (in Administrative Agent's reasonable judgment) be insufficient for the payment in full of such Mechanic's Liens, together with all interest thereon, then the Borrower shall forthwith, upon demand, deposit with the Administrative Agent (or other depositary designated by the Administrative Agent) the sum which shall (in Administrative Agent's reasonable judgment, when added to the funds then on deposit with Administrative Agent) be necessary to make such payment in full (or such other

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security as shall be reasonably satisfactory to Administrative Agent). If a Mechanic's Lien claim is ultimately resolved in the claimant's favor, then the monies so deposited shall be applied in full payment of such Mechanic's Lien or that part thereof then unpaid, together with all interest thereon (provided no Event of Default shall then exist) when the Administrative Agent has been furnished with satisfactory evidence of the amount of payment to be made. Any excess monies remaining on deposit with the Administrative Agent (or other depository) under this Section 7(b) shall be paid to the Borrower, provided that no Event of Default shall then exist.

(c) If the lien and security interest of the Administrative Agent in or to the Mortgaged Property, or any part thereof, shall be endangered or shall be attacked, directly or indirectly, the Borrower shall immediately notify the Administrative Agent and shall appear in and defend any action or proceeding purporting to affect the Mortgaged Property, or any part thereof, and shall file and prosecute such proceedings and take all actions necessary to preserve and protect such title, lien and security interest in and to the Mortgaged Property.

8. Administrative Agent's Interest In and Use of Deposits. Upon and during the continuance of an Event of Default, the Administrative Agent may, at its option, apply any monies at the time on deposit pursuant to Section 5 hereof to cure an Event of Default or to pay any of the Indebtedness in such order and manner as the Administrative Agent may elect. When the Indebtedness has been fully paid, any remaining deposits shall be returned to the Borrower less an amount equal to pay two months of Premiums. Such deposits are hereby pledged as additional security for the Indebtedness and shall not be subject to the direction or control of the Borrower. The Administrative Agent shall not be liable for any failure to apply to the payment of Taxes any amount so deposited unless the Borrower, prior to an Event of Default, shall have requested the Administrative Agent in writing to make application of such funds to the payment of such amounts, accompanied by the bills for such Taxes. The Administrative Agent shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

9. Insurance. The Borrower shall at all times keep all buildings, improvements, fixtures and articles of personal property now or hereafter situated on the Mortgaged Property insured against loss or damage by fire and such other hazards as may reasonably be required by the Administrative Agent, in accordance with the terms, coverages and provisions described in the Loan Agreement.

10. Condemnation. If all or any part of the Mortgaged Property are damaged, taken or acquired, either temporarily or permanently, in any condemnation proceeding, or by exercise of the right of eminent domain, the amount of any award or other payment for such taking or damages made in consideration thereof, the provisions of the Loan Agreement shall govern the use of awards and condemnation proceeds.

11. Stamp Tax. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over the Borrower, any tax is due or becomes due in respect of the execution and delivery of this Mortgage, the Notes or any of the other Loan Documents, the Borrower shall pay such tax in the manner required by any such law. The Borrower further agrees to reimburse the Administrative Agent for any sums which the

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Administrative Agent may expend by reason of the imposition of any such tax. Notwithstanding the foregoing, the Borrower shall not be required to pay any income or franchise taxes of the Administrative Agent.

12. Lease Assignment. The Borrower acknowledges that, concurrently herewith, the Borrower has executed and delivered to the Administrative Agent, as additional security for the repayment of the Loan, an Assignment of Leases and Rents (the "Assignment") pursuant to which the Borrower has assigned to the Administrative Agent interests in the leases of the Mortgaged Property and the rents and income from the Mortgaged Property. All of the provisions of the Assignment are hereby incorporated herein as if fully set forth at length in the text of this Mortgage. The Borrower agrees to abide by all of the provisions of the Assignment.

13. Effect of Extensions of Time and Other Changes. If the payment of the Indebtedness or any part thereof is extended or varied, if any part of any security for the payment of the Indebtedness is released, if the rate of interest charged under the Notes is changed or if the time for payment thereof is extended or varied, all persons now or at any time hereafter liable therefor, or interested in the Mortgaged Property or having an interest in the Borrower, shall be held to assent to such extension, variation, release or change and their liability and the lien and all of the provisions hereof, if any, shall continue in full force, any right of recourse against all such persons being expressly reserved by the Administrative Agent, notwithstanding such extension, variation, release or change, subject to the non-recourse provisions in the Loan Agreement.

14. Administrative Agent's Performance of Defaulted Acts and Expenses Incurred by Administrative Agent. If an Event of Default has occurred and is continuing, the Administrative Agent may, but need not, make any payment or perform any act herein required of the Borrower in any form and manner deemed expedient by the Administrative Agent, and may, but need not, make full or partial payments of principal or interest on prior encumbrances, if any, and purchase, discharge, compromise or settle any tax lien or other prior lien or title or claim thereof, or redeem from any tax sale or forfeiture affecting the Mortgaged Property or consent to any tax or assessment. All monies paid for any of the purposes herein authorized and all expenses paid or incurred in connection therewith, including reasonable attorneys' fees, and any other monies advanced by the Administrative Agent in regard to any tax referred to in Section 11 above or to protect the Mortgaged Property or the lien hereof, shall be so much additional indebtedness, and shall become immediately due and payable by the Borrower to the Administrative Agent, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. In addition to the foregoing, any costs, expenses and fees, including reasonable attorneys' fees, incurred by the Administrative Agent in connection with (a) sustaining the lien of this Mortgage or its priority, (b) protecting or enforcing any of the Administrative Agent's rights hereunder, (c) recovering any Indebtedness, (d) any litigation or proceedings affecting the Notes, this Mortgage, any of the other Loan Documents or the Mortgaged Property, including without limitation, bankruptcy and probate proceedings, or (e) preparing for the commencement, defense or participation in any threatened litigation or proceedings affecting the Notes, this Mortgage, any of the other Loan Documents or the Mortgaged Property, shall be so much additional Indebtedness, and shall become immediately due and payable by the Borrower to the Administrative Agent, upon demand, and with interest thereon accruing from the date of such demand until paid at the Default Rate. The interest accruing under this Section shall be

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immediately due and payable by the Borrower to the Administrative Agent, and shall be additional Indebtedness evidenced by the Notes and secured by this Mortgage. The Administrative Agent's failure to act shall never be considered as a waiver of any right accruing to the Administrative Agent on account of any Event of Default. Should any amount paid out or advanced by the Administrative Agent hereunder, or pursuant to any agreement executed by the Borrower in connection with the Loan, be used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any lien or encumbrance upon the Mortgaged Property or any part thereof, then the Administrative Agent shall be subrogated to any and all rights, equal or superior titles, liens and equities, owned or claimed by any owner or holder of said outstanding liens, charges and indebtedness, regardless of whether said liens, charges and indebtedness are acquired by assignment or have been released of record by the holder thereof upon payment.

## 15. Security Agreement.

(a) Grant of Security Interest. Borrower hereby grants to Administrative Agent a security interest in the property described in Subsections (d), (e), (f), (g), (h), and (i) of the granting clause of this Mortgage (the "Personal Property") to secure repayment of the Indebtedness. This Mortgage constitutes a security agreement with respect to all Personal Property in which Administrative Agent is granted a security interest hereunder, and Administrative Agent shall have all of the rights and remedies of a secured party under the Code, as well as all other rights and remedies available at law or in equity.

(b) Perfection. Borrower hereby consents to any instrument that may be requested by Administrative Agent to publish notice or protect, perfect, preserve, continue, extend, or maintain the security interest and lien, and the priority thereof, of this Mortgage or the interest of Administrative Agent in the Mortgaged Property, including, without limitation, deeds of trust, security agreements, financing statements, continuation statements, and instruments of similar character, and Borrower shall pay or cause to be paid (i) all filing and recording taxes and fees incident to each such filing or recording, (ii) all expenses, including without limitation, actual attorneys' fees and costs (of both in house and outside counsel), incurred by Administrative Agent in connection with the preparation and acknowledgement of all such instruments, and (iii) all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments, and charges arising out of or in connection with the delivery of such instruments. Borrower hereby consents to, and hereby ratifies, the filing of any financing statements relating to the Loan made prior to the date hereof. Borrower hereby irrevocably constitutes and appoints Administrative Agent as the attorney-in-fact of Borrower, to file with the appropriate filing office any such instruments. In addition, Borrower hereby authorizes Administrative Agent to cause any financing statement or fixture filing to be filed or recorded without the necessity of obtaining the consent of Borrower.

(c) Place of Business. Borrower maintains its chief executive office as set forth as the address of Borrower in Section 27 below, and Borrower will notify Administrative Agent in writing of any change in its place of business within five (5) days of such change.



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(d) Fixture Filing. This Mortgage is intended to be a financing statement within the purview of Section 9-502(b) of the Code and will be recorded as a "fixture filing" in accordance with the Code.

(e) Representations and Warranties. The Borrower represents and warrants that: (i) the Borrower is the record owner of the Mortgaged Property; (ii) the Borrower's chief executive office is located in the Commonwealth of Massachusetts; (iii) the Borrower's state of formation is the State of Delaware; (iv) the Borrower's exact legal name is as set forth on Page 1 of this Mortgage; (v) Borrower is the owner of the Personal Property subject to no liens, charges or encumbrances other than the lien hereof or vendor security interests in the ordinary course of business; (vi) the Personal Property will not be removed from the Mortgaged Property without the consent of the Administrative Agent (except for the replacement in the ordinary course of business of Personal Property that is obsolete or no longer needed); and (vii) no financing statement covering any of the Personal Property or any proceeds thereof is on file in any public office except pursuant hereto. The following addresses are the mailing addresses of the Borrower, as debtor under the Code, and the Administrative Agent, as secured party under the Code, respectively:

Borrower: PLAZA DEL LAGO OWNER LLC  
PLAZA DEL LAGO CONDOS LLC  
PLAZA DEL LAGO VP LLC  
c/o WS Development  
33 Boylston Street, Suite 3000  
Chestnut Hill, Massachusetts 02467  
Attn: General Counsel

Administrative Agent: SILICON VALLEY BANK, A DIVISION OF FIRST-  
CITIZENS BANK & TRUST COMPANY  
53 State Street, 28th Floor  
Boston, Massachusetts 02109  
Attention: Alyssa Tsoutsouras  
Email: atsoutsouras@svb.com

(f) Borrower agrees that:

(i) The Borrower (being the debtor as that term is used in the Code) is and will be the true and lawful owner of the Mortgaged Property, subject to the liens, charges or encumbrances other than the lien hereof, the Permitted Encumbrances, other liens and encumbrances benefitting the Administrative Agent and no other party, and liens and encumbrances, if any, expressly permitted by the other Loan Documents.

(ii) The Personal Property is to be used by the Borrower solely for business purposes.



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(iii) The Personal Property (other than the Accounts) will be kept at the Land or the Condominium Unit and, except for Obsolete Collateral (as hereinafter defined), will not be removed therefrom without the consent of the Administrative Agent (being the secured party as that term is used in the Code). The Personal Property may be affixed to the Land or the Condominium Unit but not be affixed to any other real estate.

(iv) The only persons having any interest in the Mortgaged Property are the Borrower, the Administrative Agent, tenants, holders of interests pursuant to Permitted Encumbrances and holders of interests, if any, expressly permitted hereby.

(v) No Financing Statement (other than Financing Statements showing the Administrative Agent as the sole secured party, or with respect to liens or encumbrances, if any, expressly permitted hereby) covering any of the Mortgaged Property or any proceeds thereof is on file in any public office except pursuant hereto; and the Borrower, at its own cost and expense, upon demand, will furnish to the Administrative Agent such further information and will execute and deliver to the Administrative Agent such financing statements and other documents in form satisfactory to the Administrative Agent and will do all such acts as the Administrative Agent may request at any time or from time to time or as may be necessary or appropriate to establish and maintain a perfected security interest in the Mortgaged Property as security for the Indebtedness, subject to no other liens or encumbrances, other than liens or encumbrances benefiting the Administrative Agent and no other party, and liens and encumbrances (if any) expressly permitted hereby; and the Borrower will pay the cost of filing or recording such financing statements or other documents, and this instrument, in all public offices wherever filing or recording is deemed by the Administrative Agent to be desirable. The Borrower hereby irrevocably authorizes the Administrative Agent at any time, and from time to time, to file in any jurisdiction any initial financing statements and amendments thereto, without the signature of the Borrower that (i) indicate the Personal Property (A) is comprised of all assets of the Borrower or words of similar effect, regardless of whether any particular asset comprising a part of the Collateral falls within the scope of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed, or (B) as being of an equal or lesser scope or within greater detail as the grant of the security interest set forth herein, and (ii) contain any other information required by Section 5 of Article 9 of the Uniform Commercial Code of the jurisdiction wherein such financing statement or amendment is filed regarding the sufficiency or filing office acceptance of any financing statement or amendment, including (A) whether the Borrower is an organization, the type of organization and any organizational identification number issued to the Borrower, and (B) in the case of a financing statement filed as a fixture filing or indicating Mortgaged Property as as-extracted collateral or timber to be cut, a sufficient description of the real property to which the Mortgaged Property relates. The Borrower agrees to furnish any such information to the Administrative Agent promptly upon request. The Borrower further ratifies and affirms its authorization

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for any financing statements and/or amendments thereto, executed and filed by the Administrative Agent in any jurisdiction prior to the date of this Mortgage. In addition, the Borrower shall make appropriate entries on its books and records disclosing the Administrative Agent's security interests in the Mortgaged Property.

(vi) Upon and during the continuance of an Event of Default hereunder, the Administrative Agent shall have the remedies of a secured party under the Code, including, without limitation, the right to take immediate and exclusive possession of the Collateral, or any part thereof, and for that purpose, so far as the Borrower can give authority therefor, with or without judicial process, may enter (if this can be done without breach of the peace) upon any place which the Mortgaged Property or any part thereof may be situated and remove the same therefrom (provided that if the Personal Property is affixed to real estate, such removal shall be subject to the conditions stated in the Code); and the Administrative Agent shall be entitled to hold, maintain, preserve and prepare the Collateral for sale, until disposed of, or may propose to retain the Collateral subject to the Borrower's right of redemption in satisfaction of the Borrower's obligations, as provided in the Code. The Administrative Agent may render the Mortgaged Property unusable without removal and may dispose of the Personal Property on the Land or the Condominium Unit. The Administrative Agent may require the Borrower to assemble the Collateral and make it available to the Administrative Agent for its possession at a place to be designated by the Administrative Agent which is reasonably convenient to both parties. The Administrative Agent will give the Borrower at least ten (10) days' notice of the time and place of any public sale of the Collateral or of the time after which any private sale or any other intended disposition thereof is made. The requirements of reasonable notice shall be met if such notice is mailed, by certified United States mail or equivalent, postage prepaid, to the address of the Borrower hereinafter set forth at least ten (10) days before the time of the sale or disposition. The Administrative Agent may buy at any public sale. The Administrative Agent may buy at private sale if the Collateral is of a type customarily sold in a recognized market or is of a type which is the subject of widely distributed standard price quotations. Any such sale may be held in conjunction with any foreclosure sale of the Mortgaged Property. If the Administrative Agent so elects, the Personal Property and the Collateral may be sold as one lot. The net proceeds realized upon any such disposition, after deduction for the expenses of retaking, holding, preparing for sale, selling and the reasonable attorneys' fees and legal expenses incurred by the Administrative Agent, shall be applied against the Indebtedness in such order or manner as the Administrative Agent shall select. The Administrative Agent will account to the Borrower for any surplus realized on such disposition.

(vii) The Borrower hereby agrees that: (i) where Collateral is in possession of a third party, the Borrower will join with the Lender in notifying the third party of the Administrative Agent's interest and obtaining an acknowledgment from the third party that it is holding the Collateral for the

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benefit of the Administrative Agent; (ii) the Borrower will cooperate with the Administrative Agent in obtaining control with respect to Collateral consisting of: deposit accounts, investment property, letter of credit rights and electronic chattel paper; and (iii) until the Indebtedness is paid in full, Borrower will not change the state where it is located or change its name or form of organization without giving the Administrative Agent at least thirty (30) days prior written notice in each instance.

## 16. Restrictions on Transfer.

(a) The Borrower, without the prior written consent of the Administrative Agent shall not effect, suffer or permit any Prohibited Transfer (as defined herein). Any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or any agreement to do any of the foregoing) of any of the following properties or interests shall constitute a "Prohibited Transfer":

(i) The Mortgaged Property or any part thereof or interest therein, excepting only sales or other dispositions of Collateral ("Obsolete Collateral") no longer useful in connection with the operation of the Mortgaged Property, provided that prior to the sale or other disposition thereof, such Obsolete Collateral has been replaced by Collateral of at least equal value and utility which is subject to the lien hereof with the same priority as with respect to the Obsolete Collateral;

(ii) Any shares of capital stock of a corporate Borrower, a corporation which is a general partner or managing member/manager in a partnership or limited liability company Borrower, or a corporation which is the owner of substantially all of the capital stock of any corporation described in this Subsection (other than the shares of capital stock of a corporate trustee or a corporation whose stock is publicly traded on a national securities exchange or on the National Association of Securities Dealers' Automated Quotation System);

(iii) All or any part of the managing member or manager interest, as the case may be, in a limited liability company Borrower or a limited liability company which is a general partner of a partnership Borrower;

(iv) All or any part of the general partner or joint venture interest, as the case may be, of a partnership Borrower or a partnership which is a manager of a limited liability company Borrower or the conversion of a partnership Borrower to a corporation or limited liability company; or

(v) If there shall be any change in control (by way of transfers of stock, partnership or member interests or otherwise) in any partner, member, manager or shareholder, as applicable, which directly or indirectly controls the day to day operations and management of the Borrower or the Guarantor and/or owns a controlling interest in the Borrower;

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in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly (including the nominee agreement), voluntarily or involuntarily, by operation of law or otherwise; provided, however, that the foregoing provisions of this Section shall not apply (i) to liens securing the Indebtedness, (ii) to the lien of current taxes and assessments not in default, (iii) to any transfers of the Mortgaged Property, or part thereof, or interest therein, or any beneficial interests, or shares of stock or partnership or joint venture interests, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate or personal representatives, or (iv) to leases permitted by the terms of the Loan Documents, if any.

(b) In determining whether or not to make the Loan, Administrative Agent and the Lenders evaluated the background and experience of the Borrower and its members in owning and operating property such as the Mortgaged Property, found it acceptable and relied and continues to rely upon same as the means of maintaining the value of the Mortgaged Property which is the Administrative Agent's security for the Notes. The Borrower and its members are well experienced in borrowing money and owning and operating property such as the Mortgaged Property, were ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. The Borrower recognizes that the Lenders are entitled to keep their loan portfolios at current interest rates by either making new loans at such rates or collecting assumption fees and/or increasing the interest rate on a loan, the security for which is purchased by a party other than the original Borrower. The Borrower further recognizes that any secondary junior financing placed upon the Mortgaged Property (i) may divert funds which would otherwise be used to pay the Notes; (ii) could result in acceleration and foreclosure by any such junior encumbrancer which would force the Administrative Agent to take measures and incur expenses to protect its security; (iii) would detract from the value of the Mortgaged Property should the Administrative Agent come into possession thereof with the intention of selling same; and (iv) would impair the Administrative Agent's right to accept a deed in lieu of foreclosure, as a foreclosure by the Administrative Agent would be necessary to clear the title to the Mortgaged Property. In accordance with the foregoing and for the purposes of (a) protecting the Administrative Agent's security, both of repayment and of value of the Mortgaged Property; (b) giving the Administrative Agent the full benefit of its bargain and contract with the Borrower; (c) allowing the Lenders to raise the interest rate and collect assumption fees; and (d) keeping the Mortgaged Property free of subordinate financing liens, the Borrower agrees that if this Section is deemed a restraint on alienation, that it is a reasonable one.

(c) Permitted Transfers. Notwithstanding the foregoing or any other provision of the Loan Documents to the contrary, "Permitted Transfers" as defined in the Loan Agreement shall in no event be Prohibited Transfers.

17. Events of Default; Acceleration. Each of the following shall constitute an "Event of Default" for purposes of this Mortgage:

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(a) Borrower fails to pay (i) any installment of principal or interest payable pursuant to the terms of the Loan Agreement within ten (10) days of the date when due, or (ii) any other amount payable to Administrative Agent or Lenders under the Notes, this Mortgage or any of the other Loan Documents within five (5) days after written notice from Administrative Agent; or, if another period is specified in any such Loan Document, the period specified therein; or

(b) Borrower fails to perform or cause to be performed any other obligation or observe any other condition, covenant, term, agreement or provision required to be performed or observed by Borrower under the Notes, this Mortgage or any of the other Loan Documents and not specifically described in this Section or in the Default section of any other Loan Document; provided, however, that if such failure by its nature can be cured, then so long as the continued operation, safety and value of the Mortgaged Property, and the priority, validity and enforceability of the liens created by this Mortgage or any of the other Loan Documents, are not impaired, threatened or jeopardized, then Borrower shall have a period (the "Cure Period") of thirty (30) days after Borrower obtains actual knowledge of such failure or receives written notice of such failure to cure the same and an Event of Default shall not be deemed to exist during the Cure Period; provided further that if such failure by its nature can be cured but cannot be cured by the payment of money and Borrower commences to cure such failure during the Cure Period and is diligently and in good faith attempting to effect such cure, the Cure Period shall be extended for thirty (30) additional days, but in no event shall the Cure Period be longer than ninety (90) days in the aggregate; or

(c) the occurrence of a Prohibited Transfer; or

(d) the occurrence of an Event of Default under the Loan Agreement or any of the other Loan Documents.

If an Event of Default occurs and is continuing, the Administrative Agent may, at its option, declare the whole of the Indebtedness to be immediately due and payable without further notice to the Borrower, with interest thereon accruing from the date of such Event of Default until paid at the Default Rate.

## 18. Foreclosure; Expense of Litigation.

(a) When all or any part of the Indebtedness shall become due, whether by acceleration or otherwise, the Administrative Agent shall have the right to foreclose the lien hereof for such Indebtedness or part thereof and/or exercise any right, power or remedy provided in this Mortgage or any of the other Loan Documents in accordance with the Illinois Mortgage Foreclosure Law (735 ILCS 5/15-1101 et. seq.) (as may be amended from time to time, the "Act"). In the event of a foreclosure sale, the Administrative Agent is hereby authorized, without the consent of the Borrower, to assign any and all insurance policies to the purchaser at such sale or to take such other steps as the Administrative Agent may deem advisable to cause the interest of such purchaser to be protected by any of such insurance policies.



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(b) In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of the Administrative Agent for reasonable attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurances with respect to the title as the Administrative Agent may deem reasonably necessary either to prosecute such suit or to evidence to bidders at any sale which may be had pursuant to such decree the true condition of the title to or the value of the Mortgaged Property. All expenditures and expenses of the nature mentioned in this Section and such other expenses and fees as may be incurred in the enforcement of the Borrower's obligations hereunder, the protection of said Mortgaged Property and the maintenance of the lien of this Mortgage, including the reasonable fees of any attorney employed by the Administrative Agent in any litigation or proceeding affecting this Mortgage, the Notes, or the Mortgaged Property, including probate and bankruptcy proceedings, or in preparations for the commencement or defense of any proceeding or threatened suit or proceeding shall be immediately due and payable by the Borrower, with interest thereon until paid at the Default Rate and shall be secured by this Mortgage.

19. Application of Proceeds of Foreclosure Sale. The proceeds of any foreclosure sale of the Mortgaged Property shall be distributed and applied in accordance with the Act and, unless otherwise specified therein, in such order as the Administrative Agent may determine in its sole and absolute discretion.

20. Appointment of Receiver. Upon or at any time after the filing of a complaint to foreclose this Mortgage, the court in which such complaint is filed shall, upon petition by the Administrative Agent, appoint a receiver for the Mortgaged Property in accordance with the Act. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of the Borrower at the time of application for such receiver and without regard to the value of the Mortgaged Property or whether the same shall be then occupied as a homestead or not and the Administrative Agent hereunder or any other holder of the Notes may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of the Mortgaged Property (i) during the pendency of such foreclosure suit, and (ii) in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not. Such receiver also shall have all other powers and rights that may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Mortgaged Property during said period, including, to the extent permitted by law, the right to lease all or any portion of the Mortgaged Property for a term that extends beyond the time of such receiver's possession without obtaining prior court approval of such lease. The court from time to time may authorize the application of the net income received by the receiver in payment of (a) the Indebtedness, or by any decree foreclosing this Mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale, and (b) any deficiency upon a sale and deficiency.

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21. Administrative Agent's Right of Possession in Case of Default. At any time after an Event of Default has occurred and is continuing, the Borrower shall, upon demand of the Administrative Agent, surrender to the Administrative Agent possession of the Mortgaged Property. During the continuance of such Event of Default, the Administrative Agent, in its discretion, may, with process of law, enter upon and take and maintain possession of all or any part of the Mortgaged Property, together with all documents, books, records, papers and accounts relating thereto, and may exclude the Borrower and its employees, agents or servants therefrom, and the Administrative Agent may then hold, operate, manage and control the Mortgaged Property, either personally or by its agents. During any such period, the Administrative Agent shall have full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the avails, rents, issues, and profits of the Mortgaged Property, including actions for the recovery of rent, actions in forcible detainer and actions in distress for rent. Without limiting the generality of the foregoing, during any such period, the Administrative Agent shall have full power to:

(a) cancel or terminate any lease or sublease for any cause or on any ground which would entitle the Borrower to cancel the same;

(b) elect to disaffirm any lease or sublease which is then subordinate to the lien hereof;

(c) extend or modify any then existing leases and to enter into new leases, which extensions, modifications and leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the Maturity Date and beyond the date of the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon the Borrower and all persons whose interests in the Mortgaged Property are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the Indebtedness, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser;

(d) make all necessary or proper repairs, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Mortgaged Property as may seem judicious to Administrative Agent, to insure and reinsure the Mortgaged Property and all risks incidental to Administrative Agent's possession, operation and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom;

(e) apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Mortgaged Property, to the payment of taxes, premiums and other charges applicable to the Mortgaged Property, or in reduction of the Indebtedness in such order and manner as Administrative Agent shall select, in its sole discretion; and

(f) receive and collect the rents, issues, profits and revenues of the Mortgaged Property personally or through a receiver so long as an Event of Default shall exist and

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during the pendency of any foreclosure proceedings and during any redemption period, and the Borrower agrees to consent to a receiver if it is believed necessary or desirable by the Administrative Agent to enforce its rights under this Subsection. The collection of rents, issues, profits or revenues of the Mortgaged Property by the Administrative Agent shall in no way waive the right of the Administrative Agent to foreclose this Mortgage in the event of any said Event of Default.

Nothing herein contained shall be construed as constituting Administrative Agent a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Property. The right to enter and take possession of the Mortgaged Property and use any personal property therein, to manage, operate, conserve and improve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Administrative Agent hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof or under the other Loan Documents. The expenses (including any receiver's fees, reasonable counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which expenses Borrower promises to pay upon demand together with interest thereon at the Default Rate. Administrative Agent shall not be liable to account to Borrower for any action taken pursuant hereto other than to account for any rents actually received by Administrative Agent. Without taking possession of the Mortgaged Property, Administrative Agent may, in the event the Mortgaged Property become vacant or are abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Property (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional Indebtedness payable upon demand with interest thereon at the Default Rate.

22. Application of Income Received by Administrative Agent. The Administrative Agent, in the exercise of the rights and powers hereinabove conferred upon it after and during the continuance of an Event of Default, shall have full power to use and apply the avails, rents, issues and profits of the Mortgaged Property to the payment of or on account of the following, in such order as the Administrative Agent may determine:

(a) to the payment of the operating expenses of the Mortgaged Property, including cost of management and leasing thereof (which shall include compensation to the Administrative Agent and its agent or agents, if management be delegated to an agent or agents, and shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized;

(b) to the payment of taxes and special assessments now due or which may hereafter become due on the Mortgaged Property; and

(c) to the payment of any Indebtedness, including any deficiency which may result from any foreclosure sale.

23. Compliance with Illinois Mortgage Foreclosure Law.

(a) If any provision in this Mortgage shall be inconsistent with any provision of the Act, provisions of the Act shall take precedence over the provisions of this

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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.

(b) If any provision of this Mortgage shall grant to the Administrative Agent (including the Administrative Agent acting as a mortgagee-in-possession) or a receiver appointed pursuant to the provisions of Section 20 of this Mortgage any powers, rights or remedies prior to, upon or following the occurrence of an Event of Default which are more limited than the powers, rights or remedies that would otherwise be vested in the Administrative Agent or in such receiver under the Act in the absence of said provision, the Administrative Agent and such receiver shall be vested with the powers, rights and remedies granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by the Administrative Agent which are of the type referred to in Section 5/15-1510 or 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in Sections 14, 18 or 31 of this Mortgage, shall be added to the Indebtedness and/or by the judgment of foreclosure.

24. Rights Cumulative. Each right, power and remedy herein conferred upon the Administrative Agent is cumulative and in addition to every other right, power or remedy, express or implied, given now or hereafter existing under any of the Loan Documents or at law or in equity, and each and every right, power and remedy herein set forth or otherwise so existing may be exercised from time to time as often and in such order as may be deemed expedient by the Administrative Agent, and the exercise or the beginning of the exercise of one right, power or remedy shall not be a waiver of the right to exercise at the same time or thereafter any other right, power or remedy, and no delay or omission of the Administrative Agent in the exercise of any right, power or remedy accruing hereunder or arising otherwise shall impair any such right, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein.

25. Administrative Agent's Right of Inspection. The Administrative Agent and its representatives shall have the right to inspect the Mortgaged Property and the books and records with respect thereto at all reasonable times upon not less than five (5) Business Days prior notice to the Borrower (except in the case of an emergency), and access thereto, subject to the rights of tenants in possession, shall be permitted for that purpose.

26. Release Upon Payment and Discharge of Borrower's Obligations. The Administrative Agent shall release this Mortgage and the lien hereof by proper instrument upon payment and discharge of all Indebtedness, including payment of all reasonable expenses incurred by the Administrative Agent in connection with the execution of such release.

27. Notices Any notices, communications and waivers under this Mortgage shall be in writing and shall be (a) delivered in person, (b) mailed, postage prepaid, either by registered or certified mail, return receipt requested, (c) by electronic mail (provided, however, any notice of an Event of Default or otherwise claiming a default hereunder shall also be sent by one of the other methods herein) or (d) sent by overnight express carrier, addressed in each case as follows:

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To the Administrative Agent: SILICON VALLEY BANK, A DIVISION OF  
FIRST-CITIZENS BANK & TRUST COMPANY  
53 State Street, 28th Floor  
Boston, Massachusetts 02109  
Attention: Alyssa Tsoutsouras  
Email: atsoutsouras@svb.com

With a copy to: RIEMER & BRAUNSTEIN LLP  
71 S. Wacker Drive, Suite 3515  
Chicago, Illinois 60606  
Attn: Michael F. McGuire, Esq.

To the Borrower: PLAZA DEL LAGO OWNER LLC  
PLAZA DEL LAGO CONDOS LLC  
PLAZA DEL LAGO VP LLC  
c/o WS Development  
33 Boylston Street, Suite 3000  
Chestnut Hill, Massachusetts 02467  
Attn: Chief Financial Officer  
Attn: General Counsel  
Email: finance@wsdevelopment.com  
Email: legalnotices@wsdevelopment.com

With copies to: PLAZA DEL LAGO OWNER LLC  
PLAZA DEL LAGO CONDOS LLC  
PLAZA DEL LAGO VP LLC  
c/o CrossHarbor Capital Partners LLC  
One Boston Place, Suite 2300  
Boston, Massachusetts 02108  
Attn: Patrick O' Sullivan  
Attn: Eric S. Boyd  
Email: posullivan@crossharborcapital.com  
Email: eboyd@crossharborcapital.com

GOULSTON & STORRS PC  
400 Atlantic Avenue  
Boston, Massachusetts 02111-3333  
Attn: Phillip G. Levy, Esq.

Effective April 22, 2024, the notice address is updated as follows:  
GOULSTON & STORRS PC  
One Post Office Square, 25th Floor  
Boston, Massachusetts 02109  
Attention: Phillip G. Levy, Esq.



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And:

MANSOUR LAW OFFICES LLC  
One Boston Place, Suite 2300  
Boston, Massachusetts 02108  
Attn: Lauree E. Mansour, Esq.  
Email: lmansour@mansourlawoffices.com

or to any other address as to any of the parties hereto, as such party shall designate in a written notice to the other party hereto. All notices sent pursuant to the terms of this section shall be deemed received (i) if personally delivered, then on the date of delivery, (ii) if sent by overnight, express carrier, then on the next Business Day immediately following the day sent, (iii) if sent by electronic mail, with receipt acknowledged (provided, however, any notice of an Event of Default or otherwise claiming a default hereunder shall also be sent by one of the other methods herein and deemed received on the date of delivery in accordance with such method), or (iv) if sent by registered or certified mail, then on the earlier of the third Business Day following the day sent or when actually received.

28. Waiver of Right to Redeem - Waiver of Appraisal, Valuation, Etc. Borrower shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Mortgage Laws," now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such Mortgage Laws. Borrower for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Property marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Property sold as an entirety. In the event of any sale made under or by virtue of this instrument, the whole of the Mortgaged Property may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as the Administrative Agent may determine in its sole discretion. Administrative Agent shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Administrative Agent so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Administrative Agent with the amount payable to Administrative Agent out of the net proceeds of such sale. In the event of any such sale, the outstanding principal amount of the Loan and the other Indebtedness, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Borrower acknowledges that the Mortgaged Property does not constitute agricultural real estate, as defined in Section 5/15-1201 of the Act, or residential real estate, as defined in Section 5/15-1219 of the Act. To the fullest extent permitted by law, Borrower, on behalf of Borrower, and each and every person acquiring any interest in, or title to the Mortgaged Property described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law, hereby voluntarily and knowingly waives (i) any and all rights of redemption pursuant to Section 5/15-1601(b) of the Act, and (ii) any and all rights of reinstatement.

29. Protective Advances.

(a) Advances, disbursements and expenditures made by Administrative Agent for the following purposes, whether before and during a foreclosure, and at any time prior

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to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, shall, in addition to those otherwise authorized by this Mortgage, constitute "Protective Advances":

(b) all advances by Administrative Agent in accordance with the terms of this Mortgage to: (A) preserve or maintain, repair, restore or rebuild the improvements upon the Mortgaged Property; (B) preserve the lien of this Mortgage or the priority thereof; or (C) enforce this Mortgage, as referred to in Subsection (b)(5) of Section 5/15-1302 of the Act;

(c) payments by Administrative Agent of: (A) when due, installments of principal, interest or other obligations in accordance with the terms of any prior lien or encumbrance; (B) when due, installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the mortgaged real estate or any part thereof; (C) other obligations authorized by this Mortgage; or (D) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title to the Mortgaged Property, as referred to in Section 5/15-1505 of the Act;

(d) advances by Administrative Agent in settlement or compromise of any claims asserted by claimants under any prior liens;

(e) reasonable attorneys' fees and other costs incurred: (A) in connection with the foreclosure of this Mortgage as referred to in Section 5/15-1504(d)(2) and 5/15-1510 of the Act; (B) in connection with any action, suit or proceeding brought by or against the Administrative Agent for the enforcement of this Mortgage or arising from the interest of the Administrative Agent hereunder or under any of the other Loan Documents; or (C) in the preparation for the commencement or defense of any such foreclosure or other action;

(f) Administrative Agent's fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the Act;

(g) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Mortgage;

(h) expenses deductible from proceeds of sale as referred to in Subsections (a) and (b) of Section 5/15-1512 of the Act; and

(i) expenses incurred and expenditures made by Administrative Agent for any one or more of the following: (A) premiums for casualty and liability insurance paid by Administrative Agent whether or not Administrative Agent or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the mortgaged real estate imposed by Subsection (c)(1) of

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Section 5/15-1704 of the Act; (B) repair or restoration of damage or destruction in excess of available Insurance Proceeds or condemnation awards; (C) payments required or deemed by Administrative Agent to be for the benefit of the Mortgaged Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Property; (D) shared or common expense assessments payable to any association or corporation in which the owner of the mortgaged real estate is a member in any way affecting the Mortgaged Property; (E) pursuant to any lease or other agreement for occupancy of the mortgaged real estate.

(j) All Protective Advances shall be so much additional Indebtedness, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Rate.

(k) This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b)(5) of Section 5/15-1302 of the Act.

(l) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in the:

- (i) determination of the amount of Indebtedness at any time;
- (ii) indebtedness found due and owing to the Administrative Agent in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;
- (iii) determination of amounts deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;
- (iv) application of income in the hands of any receiver or mortgagee in possession; and
- (v) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Section 5/15-1508 and Section 5/15-1511 of the Act.

30. Contests. Notwithstanding anything to the contrary herein contained, the Borrower shall have the right to contest by appropriate legal proceedings diligently prosecuted any Taxes imposed or assessed upon the Mortgaged Property or which may be or become a lien thereon and any mechanics', materialmen's or other liens or claims for lien upon the Mortgaged Property (each, a "Contested Liens"), and no Contested Lien shall constitute an Event of Default hereunder, if, but only if:

- (a) The Borrower shall forthwith give notice of any Contested Lien to the Administrative Agent at the time the same shall be asserted;

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(b) The Borrower shall either pay under protest or deposit with the Administrative Agent the full amount (the "Lien Amount") of such Contested Lien, together with such amount as the Administrative Agent may reasonably estimate as interest or penalties which might arise during the period of contest; provided that in lieu of such payment the Borrower may furnish to the Administrative Agent a bond or title indemnity in such amount and form, and issued by a bond or title insuring company, as may be satisfactory to the Administrative Agent in its reasonable discretion;

(c) The Borrower shall diligently prosecute the contest of any Contested Lien by appropriate legal proceedings if necessary to stay the foreclosure or forfeiture of the Mortgaged Property, and shall permit the Administrative Agent to be represented in any such contest and shall pay all expenses incurred, in so doing, including fees and expenses of the Administrative Agent's counsel (all of which shall constitute so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand);

(d) The Borrower shall pay each such Contested Lien and all Lien Amounts together with interest and penalties thereon (i) if and to the extent that any such Contested Lien shall be determined adverse to the Borrower, or (ii) forthwith upon demand by the Administrative Agent if, in the opinion of the Administrative Agent, and notwithstanding any such contest, the Mortgaged Property shall be in jeopardy or in danger of being forfeited or foreclosed; provided that if the Borrower shall fail so to do, the Administrative Agent may, but shall not be required to, pay all such Contested Liens and Lien Amounts and interest and penalties thereon and such other sums as may be necessary in the judgment of the Administrative Agent to obtain the release and discharge of such liens; and any amount expended by the Administrative Agent in so doing shall be so much additional Indebtedness bearing interest at the Default Rate until paid, and payable upon demand; and provided further that the Administrative Agent may in such case use and apply monies deposited as provided in Subsection (b) above and may demand payment upon any bond or title indemnity furnished as aforesaid.

## 31. Expenses Relating to Notes and Mortgage.

(a) The Borrower will pay all expenses, charges, costs and fees relating to the Loan or necessitated by the terms of the Notes, this Mortgage or any of the other Loan Documents, including without limitation, the Administrative Agent's and any Lender's reasonable attorneys' fees in connection with the negotiation, documentation, administration, servicing and enforcement of the Notes, this Mortgage and the other Loan Documents, all filing, registration and recording fees, all other expenses incident to the execution and acknowledgment of this Mortgage and all federal, state, county and municipal taxes, and other taxes (provided the Borrower shall not be required to pay any income or franchise taxes of the Administrative Agent), duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Notes and this Mortgage. The Borrower recognizes that, during the term of this Mortgage, the Administrative Agent:

(i) May be involved in court or administrative proceedings, including, without restricting the foregoing, foreclosure, probate, bankruptcy, creditors'

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arrangements, insolvency, housing authority and pollution control proceedings of any kind, to which the Administrative Agent shall be a party by reason of the Loan Documents or in which the Loan Documents or the Mortgaged Property are involved directly or indirectly;

(ii) May make preparations following the occurrence and during the continuance of an Event of Default hereunder for the commencement of any suit for the foreclosure hereof, which may or may not be actually commenced;

(iii) May make preparations following the occurrence of and during the continuance of an Event of Default hereunder for, and do work in connection with, the Administrative Agent's taking possession of and managing the Mortgaged Property, which event may or may not actually occur;

(iv) May make preparations for and commence other private or public actions to remedy an Event of Default hereunder, which other actions may or may not be actually commenced;

(v) May enter into negotiations with the Borrower or any of its agents, employees or attorneys in connection with the existence or curing of any Event of Default hereunder, the sale of the Mortgaged Property, the assumption of liability for any of the Indebtedness or the transfer of the Mortgaged Property in lieu of foreclosure; or

(vi) May enter into negotiations with the Borrower or any of its agents, employees or attorneys pertaining to the Administrative Agent's approval of actions taken or proposed to be taken by the Borrower which approval is required by the terms of this Mortgage.

(b) All expenses, charges, costs and fees described in this Section shall be so much additional Indebtedness, shall bear interest from the date so incurred until paid at the Default Rate and shall be paid, together with said interest, by the Borrower forthwith upon demand.

32. Statement of Indebtedness. The Borrower, within seven days after being so requested by the Administrative Agent, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by this Mortgage, the date to which interest has been paid and stating either that no offsets or defenses exist against such debt or, if such offsets or defenses are alleged to exist, the nature thereof.

33. Further Instruments. Upon request of the Administrative Agent, the Borrower shall execute, acknowledge and deliver all such additional instruments and further assurances of title and shall do or cause to be done all such further acts and things as may reasonably be necessary fully to effectuate the intent of this Mortgage and of the other Loan Documents.

34. Additional Indebtedness Secured. All persons and entities with any interest in the Mortgaged Property or about to acquire any such interest should be aware that this Mortgage secures more than the stated principal amount of the Notes and interest thereon; this Mortgage



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secures any and all other amounts which may become due under the Notes, any of the other Loan Documents or any other document or instrument evidencing, securing or otherwise affecting the Indebtedness, including, without limitation, any and all amounts expended by the Administrative Agent to operate, manage or maintain the Mortgaged Property or to otherwise protect the Mortgaged Property or the lien of this Mortgage.

35. Indemnity. The Borrower hereby covenants and agrees that no liability shall be asserted or enforced against the Administrative Agent or the Lenders in the exercise of the rights and powers granted to the Administrative Agent and Lenders in this Mortgage, and the Borrower hereby expressly waives and releases any such liability, except to the extent resulting from the gross negligence or willful misconduct of the Administrative Agent or the Lenders. The Borrower shall indemnify and save the Administrative Agent and the Lenders harmless from and against any and all liabilities, obligations, losses, damages, claims, costs and expenses, including reasonable attorneys' fees and court costs (collectively, "Claims"), of whatever kind or nature which may be imposed on, incurred by or asserted against the Administrative Agent or the Lenders at any time by any third party which relate to or arise from: (a) any suit or proceeding (including probate and bankruptcy proceedings), or the threat thereof, in or to which any of the Administrative Agent or the Lenders may or does become a party, either as plaintiff or as a defendant, by reason of this Mortgage or for the purpose of protecting the lien of this Mortgage; (b) the offer for sale or sale of all or any portion of the Mortgaged Property; and (c) the ownership, leasing, use, operation or maintenance of the Mortgaged Property, if such Claims relate to or arise from actions taken prior to the surrender of possession of the Mortgaged Property to the Administrative Agent or its receiver in accordance with the terms of this Mortgage; provided, however, that the Borrower shall not be obligated to indemnify or hold the Administrative Agent or the Lenders harmless from and against any Claims arising from the gross negligence or willful misconduct of the Administrative Agent or the Lenders. All costs provided for herein and paid for by the Administrative Agent or the Lenders shall be so much additional Indebtedness and shall become immediately due and payable upon demand by the Administrative Agent and with interest thereon from the date incurred by the Administrative Agent or the Lenders until paid at the Default Rate.

36. Compliance with Environmental Laws. Concurrently herewith the Borrower and the Guarantor has executed and delivered to the Administrative Agent that certain Environmental Indemnity Agreement dated as of the date hereof (the "Indemnity") pursuant to which the Borrower and the Guarantor has indemnified the Administrative Agent for environmental matters concerning the Mortgaged Property, as more particularly described therein. The provisions of the Indemnity are hereby incorporated herein and this Mortgage shall secure the obligations of the Borrower thereunder.

37. Subrogation. If any part of the Indebtedness is used directly or indirectly to pay off, discharge or satisfy, in whole or in part, any prior lien or encumbrance upon the Mortgaged Property or any part thereof, then by advancing the monies to make such payment, the Administrative Agent shall be subrogated to the rights of the holder thereof in and to such other lien or encumbrance and any additional security held by such holder, and shall have the benefit of the priority of the same.

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## 38. Business Loan.

(a) The Borrower declares, represents, certifies and agrees that the proceeds of the Notes will be used solely for business purposes and that the loan is exempt from interest limitations pursuant to the provisions of 815 ILCS 205/4 and is an exempted transaction under the Truth in Lending Act, 15 U.S.C. Section 1601 et seq and that the Loan is a loan secured by a mortgage on real estate within the purview and operation of 815 ILCS 205/4(1)(l).

(b) All rights, remedies and powers provided by this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law, and all the provisions of this Mortgage are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Mortgage invalid or unenforceable under the provisions of any applicable law.

## 39. Intentionally Omitted.

## 40. Miscellaneous.

(a) Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon and enforceable against the Borrower and its assigns and other successors. This Mortgage and all provisions hereof shall inure to the benefit of the Administrative Agent, its successors and assigns and any holder or holders, from time to time, of the Notes.

(b) Invalidity of Provisions. In the event that any provision of this Mortgage is deemed to be invalid by reason of the operation of law, or by reason of the interpretation placed thereon by any administrative agency or any court, the Borrower and the Administrative Agent shall negotiate an equitable adjustment in the provisions of the same in order to effect, to the maximum extent permitted by law, the purpose of this Mortgage and the validity and enforceability of the remaining provisions, or portions or applications thereof, shall not be affected thereby and shall remain in full force and effect.

(c) Governing Law. THIS INSTRUMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS. NOTWITHSTANDING THE FOREGOING, AT ALL TIMES THE PROVISIONS FOR THE CREATION, PERFECTION, AND ENFORCEMENT OF THE LIENS AND SECURITY INTERESTS CRATED PURSUANT HERETO SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDING TO THE LAWS OF THE STATE OF ILLINOIS. Whenever possible, each provision of this Mortgage and any other statement, instrument or transaction contemplated hereby or relating hereto shall be interpreted in such manner as to be effective and valid under such applicable law, but, if any provision of this Mortgage or any other statement, instrument or transaction contemplated hereby or relating hereto shall be held to be prohibited or invalid under such applicable law, such

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provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage or any other statement, instrument or transaction contemplated hereby or relating hereto.

(d) Municipal Requirements. Except for the Permitted Encumbrances, the Borrower shall not by act or omission permit any building or other improvement on premises not subject to the lien of this Mortgage to rely on the Mortgaged Property or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and the Borrower hereby assigns to the Administrative Agent any and all rights to give consent for all or any portion of the Mortgaged Property or any interest therein to be so used. Similarly, no building or other improvement on the Mortgaged Property shall rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any governmental or municipal requirement. Any act or omission by the Borrower which would result in a violation of any of the provisions of this Subsection shall be void.

(e) Litigation. Borrower, at its sole cost and expense, shall appear in and defend any dispute, action, suit or proceeding purporting to relate to or affect the Notes, the Loan Agreement or the security therefor, including, without limitation, this Mortgage or the Mortgaged Property. If any action or proceeding relating to or affecting the Notes, this Mortgage, the Loan Agreement or the Mortgaged Property is commenced or threatened, to which action or proceeding lender is made a party, or in which it becomes necessary or desirable, in Administrative Agent's reasonable opinion, to defend or uphold, or to consider defending or upholding, the lien of this Mortgage, or to protect the Mortgaged Property or any part thereof, or to exercise, or to obtain the right to exercise, any of Administrative Agent's rights, powers and remedies hereunder, including, without limitation, any foreclosure or commencement of foreclosure proceedings, probate proceedings and bankruptcy, insolvency, arrangement, reorganization or other debtor-relief proceedings, or with respect to which Administrative Agent otherwise incurs costs or expenses, all sums paid by lender in order to determine the merits thereof, to establish or defend the rights and liens of this Mortgage, to protect the Mortgaged Property or any part thereof and to exercise, or to obtain the right to exercise, any of Administrative Agent's rights, powers and remedies hereunder, and/or otherwise incurred by Administrative Agent in connection therewith (including, without limitation, attorneys' fees and costs and allowances prior to trial, at trial and on appeal) and whether suit be brought or not, and whether or not Administrative Agent prevails therein, shall be paid, upon demand, to Administrative Agent by Borrower, together with interest thereon at the Interest Rate from the date incurred, and any such sum or sums shall be secured thereby.

(f) Adjustable Rate Notes. The Notes secured by this Mortgage provides for adjustments in its Interest Rate from time to time in accordance with its terms. Reference is made to the Notes for the time, terms and conditions of the adjustments in the Interest Rate. Such times, terms and conditions are incorporated herein by reference.

(g) Rights of Tenants. The Administrative Agent shall have the right and option to commence a civil action to foreclose this Mortgage and to obtain a decree of foreclosure and sale subject to the rights of any tenant or tenants of the Mortgaged Property having an interest in the Mortgaged Property prior to that of the Administrative

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Agent. The failure to join any such tenant or tenants of the Mortgaged Property as party defendant or defendants in any such civil action or the failure of any decree of foreclosure and sale to foreclose their rights shall not be asserted by the Borrower as a defense in any civil action instituted to collect the Indebtedness, or any part thereof or any deficiency remaining unpaid after foreclosure and sale of the Mortgaged Property, any statute or rule of law at any time existing to the contrary notwithstanding.

(h) Option of Administrative Agent to Subordinate. At the option of the Administrative Agent, this Mortgage shall become subject and subordinate, in whole or in part (but not with respect to priority of entitlement to insurance proceeds or any condemnation or eminent domain award) to any and all leases of all or any part of the Mortgaged Property upon the execution by the Administrative Agent of a unilateral declaration to that effect and the recording thereof in the Office of the Recorder of Deeds in and for the county wherein the Mortgaged Property are situated.

(i) Mortgagee-in-Possession. Nothing herein contained shall be construed as constituting the Administrative Agent a mortgagee-in-possession in the absence of the actual taking of possession of the Mortgaged Property by the Administrative Agent pursuant to this Mortgage.

(j) Relationship of Administrative Agent and Borrower. The Administrative Agent shall in no event be construed for any purpose to be a partner, joint venturer, agent or associate of the Borrower or of any lessee, operator, concessionaire or licensee of the Borrower in the conduct of their respective businesses, and, without limiting the foregoing, the Administrative Agent shall not be deemed to be such partner, joint venturer, agent or associate on account of the Administrative Agent becoming a mortgagee-in-possession or exercising any rights pursuant to this Mortgage, any of the other Loan Documents, or otherwise. The relationship of the Borrower and the Administrative Agent hereunder is solely that of debtor/creditor.

(k) Time of the Essence. Time is of the essence of the payment by the Borrower of all amounts due and owing to the Administrative Agent under the Notes and the other Loan Documents and the performance and observance by the Borrower of all terms, conditions, obligations and agreements contained in this Mortgage and the other Loan Documents.

(l) No Merger. The parties hereto intend that the Mortgage and the lien hereof shall not merge in fee simple title to the Mortgaged Property, and if the Administrative Agent acquires any additional or other interest in or to the Mortgaged Property or the ownership thereof, then, unless a contrary intent is manifested by the Administrative Agent as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title and this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

(m) Maximum Indebtedness. Notwithstanding anything contained herein to the contrary, in no event shall the Indebtedness exceed an amount equal to

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\$130,000,000.00; provided, however, in no event shall the Lenders be obligated to advance funds in excess of the face amount of the Notes.

(n) CONSENT TO JURISDICTION. BORROWER, ADMINISTRATIVE AGENT AND THE LENDERS HEREBY AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING DIRECTLY OR INDIRECTLY OUT OF THIS SECURITY INSTRUMENT SHALL BE LITIGATED IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS, OR THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS. BORROWER, ADMINISTRATIVE AGENT AND THE LENDERS HEREBY EXPRESSLY SUBMIT AND CONSENT IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED BY BORROWER, ADMINISTRATIVE AGENT AND THE LENDERS IN ANY OF SUCH COURTS, AND AGREE THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO THIS SECURITY INSTRUMENT. BORROWER, ADMINISTRATIVE AGENT AND THE LENDERS WAIVE ANY CLAIM THAT COOK COUNTY, ILLINOIS OR THE NORTHERN DISTRICT OF ILLINOIS IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE.

(o) WAIVER OF JURY TRIAL. BORROWER, ADMINISTRATIVE AGENT AND LENDERS HEREBY ACKNOWLEDGE THAT THE TIME AND EXPENSE REQUIRED FOR TRIAL BY JURY OF ANY CONTROVERSY RELATED IN ANY WAY TO THIS MORTGAGE WOULD EXCEED THE TIME AND EXPENSE REQUIRED FOR A BENCH TRIAL, AND HEREBY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, TRIAL BY JURY AND WAIVE ANY BOND OR SURETY OR SECURITY UPON SUCH BOND WHICH MIGHT, BUT FOR THIS WAIVER, BE REQUIRED OF THE HOLDER OF THIS MORTGAGE.

(p) Future Advances. The Administrative Agent and Lenders are obligated under the terms of the Loan Documents to make advances as provided therein, and the Borrower acknowledges and intends that all such advances, including future advances whenever hereafter made, shall be secured by the lien of this Mortgage, as provided in Section 15-1302(b)(1) of the Act.

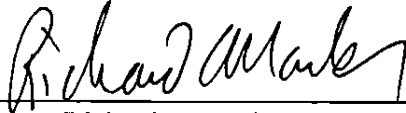
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IN WITNESS WHEREOF, the Assignor has executed and delivered this Assignment of Leases and Rents as of the day and year first above written.

**PLAZA DEL LAGO OWNER LLC,**  
a Delaware limited liability company

By: 

Name: Richard A. Marks

Title: Authorized Signatory

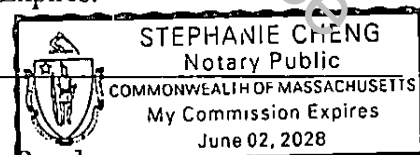
COMMONWEALTH OF MASSACHUSETTS )  
 ) SS.  
COUNTY OF MIDDLESEX )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DOES HEREBY CERTIFY that Richard A. Marks, the Authorized Signatory of **PLAZA DEL LAGO OWNER LLC**, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8 day of April, 2024.

  
Notary Public


My Commission Expires:



[Signatures Continue on Following Page]

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**PLAZA DEL LAGO CONDOS LLC,**  
a Delaware limited liability company

By:   
Name: Richard A. Marks  
Title: Authorized Signatory

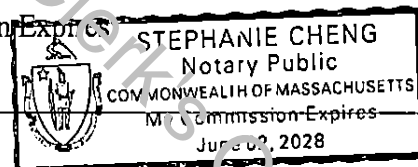
COMMONWEALTH OF MASSACHUSETTS )  
 ) SS.  
COUNTY OF MIDDLESEX )

The undersigned, a Notary Public in and for the said County, in the State aforesaid, DOES HEREBY CERTIFY that Richard A. Marks, the Authorized Signatory of **PLAZA DEL LAGO CONDOS LLC**, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8 day of April, 2024.

  
Notary Public

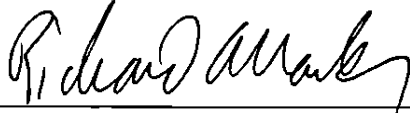
My Commission Expires



[Signatures Continue on Following Page]

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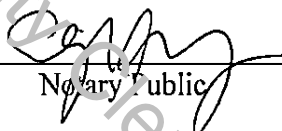
**PLAZA DEL LAGO VP LLC,**  
a Delaware limited liability company

By:   
Name: Richard A. Marks  
Title: Authorized Signatory

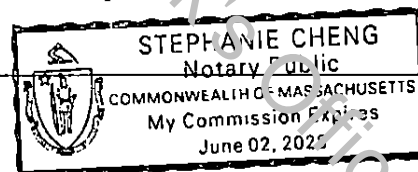
COMMONWEALTH OF MASSACHUSETTS )  
 ) SS.  
COUNTY OF MIDDLESEX )

The undersigned a Notary Public in and for the said County, in the State aforesaid, DOES HEREBY CERTIFY that Richard A. Marks, the Authorized Signatory of **PLAZA DEL LAGO VP LLC**, a Delaware limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Authorized Signatory, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as his/her own free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 8 day of April, 2024.

  
Notary Public

My Commission Expires:



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## EXHIBIT A

### LEGAL DESCRIPTION OF LAND

#### TRACT 1:

##### PARCEL 1:

LOTS 1, 2, 3, 4, 5, 6 AND 7 IN FOUFAS STEFAN RESUBDIVISION OF PART OF THE EAST HALF OF FRACTIONAL SECTION 27, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

EXCEPT THAT PART OF LOT 7 CONVEYED TO THE STATE OF ILLINOIS DEPARTMENT OF TRANSPORTATION FOR ROAD PURPOSES IN THE WARRANTY DEED RECORDED AUGUST 27, 2007 AS DOCUMENT 0723946063 AND DEPICTED AS PARCEL OGC0001 IN THE DOCUMENT RECORDED DECEMBER 19, 2007 AS DOCUMENT 0735315000.

##### PARCEL 2:

LOT 2 IN ANTOINETTE GAGE'S SUBDIVISION OF LOT 1 IN BLOCK 1 IN SUBDIVISION OF BLOCKS 1 AND 2 IN GAGE'S ADDITION TO THE VILLAGE OF WILMETTE, IN THE NORTHEAST FRACTIONAL 1/4 OF FRACTIONAL SECTION 27, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT RECORDED AS DOCUMENT 7639900, AND ALSO

THE NORTHWESTERLY 45 FEET OF LOT 4 IN ANTOINETTE GAGE'S SUBDIVISION OF LOT 1 IN BLOCK 1 IN THE SUBDIVISION OF BLOCKS 1 AND 2 OF GAGE'S ADDITION TO VILLAGE OF WILMETTE IN THE NORTHEAST FRACTIONAL 1/4 OF FRACTIONAL SECTION 27, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, BEING THAT PART OF SAID LOT 4 IN SAID ANTOINETTE GAGE'S SUBDIVISION AFORESAID, BOUNDED AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHERLY CORNER OF SAID LOT 4 BEING THE INTERSECTION OF THE NORTHWESTERLY LINE OF SAID LOT 4 WITH THE NORTHEASTERLY LINE OF SAID LOT 4 (SAID NORTHEASTERLY LINE BEING ALSO THE WESTERLY LINE OF SHERIDAN ROAD) THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID LOT 4, A DISTANCE OF 162.4 FEET TO THE SOUTHWESTERLY LINE OF SAID LOT 4 (SAID SOUTHWESTERLY LINE OF SAID LOT 4 BEING ALSO THE NORTHEASTERLY LINE OF AN ALLEY); THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINE OF SAID LOT 4, A DISTANCE OF 45 FEET; THENCE NORTHEASTERLY ALONG A LINE PARALLEL WITH THE NORTHWESTERLY LINE OF LOT 4, A DISTANCE OF 162.4 FEET TO THE NORTHEASTERLY LINE OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 4, A DISTANCE OF 45 FEET TO

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PLACE OF BEGINNING, IN WILMETTE, IN COOK COUNTY, ILLINOIS.

FOR INFORMATIONAL PURPOSES ONLY:

ADDRESS: 1447 and 1515 Sheridan Road, Wilmette, IL 60091; and 1609 and 1705 10th Street, Wilmette, IL 60091

PIN(S): 05-27-201-011-0000, 05-27-201-012-0000, 05-27-201-028-0000, 05-27-201-029-0000, 05-27-201-031-0000, 05-27-201-032-0000, 05-27-201-033-0000, 05-27-201-034-0000, 05-27-201-035-0000, and 05-27-201-036-0000

## TRACT 2:

COMMERCIAL UNITS C-1, C-5 AND C-6 IN 1625 SHERIDAN ROAD CONDOMINIUM FORMERLY KNOWN AS 1625 SHERIDAN HOUSE CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE:

LOT "A" IN D. J. L. WALTHER'S CONSOLIDATION IN THE WEST 1/2 OF THE NORTH EAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS (RECORDED APRIL 23, 1971 AS DOCUMENT NUMBER 21458249) BEING ALSO DESCRIBED AS LOT 2 IN BLOCK 1 IN THE SUBDIVISION OF BLOCKS 1 AND 2 OF GAGE'S ADDITION TO THE VILLAGE OF WILMETTE AND OF THE WEST 40 FEET WEST OF AND ADJOINING THE WEST LINE OF BLOCK 2 THEREOF IN A SUBDIVISION OF SECTIONS 27 AND 28, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 28, 1895 AS DOCUMENT NUMBER 2269816 IN COOK COUNTY, ILLINOIS, AND LOT 4 (EXCEPT THE NORTH WESTERLY 45 FEET) IN ANTOINETTE GAGE'S SUBDIVISION OF LOT 1 IN BLOCK 1 IN THE SUBDIVISION OF BLOCKS 1 AND 2 IN GAGE'S ADDITION TO VILLAGE OF WILMETTE IN THE NORTH EAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN IN COOK COUNTY, ILLINOIS.

WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 25291029, AS AMENDED, TOGETHER WITH THEIR UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND TOGETHER WITH PARKING SPACES 50, 60 AND 65.

FOR INFORMATIONAL PURPOSES ONLY:

ADDRESS: 1625 Sheridan Road, Units C-1, C-5, and C-6, Wilmette, IL 60091

PIN(S): 05-27-201-040-1056, 05-27-201-040-1060, and 05-27-201-040-1061



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## **TRACT 3:**

COMMERCIAL UNITS C-2, C-3 AND C-4 IN 1625 SHERIDAN ROAD CONDOMINIUM FORMERLY KNOWN AS 1625 SHERMAN HOUSE CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: LOT "A" IN D. J. L. WALTHER'S CONSOLIDATION IN THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS (RECORDED APRIL 23, 1971 AS DOCUMENT 21458249) BEING ALSO DESCRIBED AS LOT 2 IN BLOCK 1 IN THE SUBDIVISION OF BLOCKS 1 AND 2 OF GAGE'S ADDITION TO THE VILLAGE OF WILMETTE AND OF THE WEST 40 FEET WEST OF AND ADJOINING THE WEST LINE OF BLOCK 2 THEREOF IN A SUBDIVISION IN SECTIONS 27 AND 28, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 28, 1895, AS DOCUMENT 2269816, IN COOK COUNTY, ILLINOIS AND LOT 4 (EXCEPT THE NORTHWESTERLY 45 FEET) IN ANTOINETTE GAGE'S SUBDIVISION OF LOT 1 IN BLOCK 1 IN THE SUBDIVISION OF BLOCKS 1 AND 2 IN GAGE'S ADDITION TO VILLAGE OF WILMETTE IN THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 42 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT 25291029, AS AMENDED TOGETHER WITH THEIR UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS AND TOGETHER WITH PARKING SPACES 61, 63 AND 64.

FOR INFORMATIONAL PURPOSES ONLY:

ADDRESS: 1625 Sheridan Road, Units C-2, C-3, and C-4, Wilmette, IL 60091

PIN(S): 05-27-201-040-1057, 05-27-201-040-1058, and 05-27-201-040-1059

## **TRACT 4:**

LOT 3 IN ANTONIETTE GAGE'S SUBDIVISION OF LOT 1 IN BLOCK 1 IN SUBDIVISION OF BLOCKS 1 AND 2 IN GAGE'S ADDITION TO THE VILLAGE OF WILMETTE, IN THE NORTHEAST FRACTIONAL QUARTER OF FRACTIONAL SECTION 27, TOWNSHIP 42 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

FOR INFORMATIONAL PURPOSES ONLY:

ADDRESS: Vacant Land

PIN(S): 05-27-201-010-0000

# UNOFFICIAL COPY

## EXHIBIT B

### PERMITTED EXCEPTIONS

GENERAL REAL ESTATE TAXES NOT YET DUE AND PAYABLE AND EXCEPTIONS SET FORTH ON PRO FORMA LOAN POLICY NO. CCHI2306241LI ISSUED BY CHICAGO TITLE INSURANCE COMPANY AS OF THE DATE HEREOF.

Property of Cook County Clerk's Office