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Illinois Anti-Predatory Lending Database Program

Certificate of Exemption



Report Mortgage Fraud
844-768-1713



2418408013

Doc# 2418408013 Fee \$88.00

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

CEDRIC GILES

COOK COUNTY CLERK'S OFFICE

DATE: 7/2/2024 10:00 AM

PAGE: 1 OF 32

The property identified as: **PIN: 31-34-405-019-0000**

Address:

Street: 23150 Governors Highway

Street line 2:

City: Richton Park

State: IL

ZIP Code: 60471

Lender: Athene Annuity & Life Company

Borrower: FAM Self-Storage - 21, LLC & Red Dot Storage 94 (19201 Glenwood) LLC

Loan / Mortgage Amount: \$180,535,017.00

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

Certificate number: C756913D-7220-434A-A521-F55088804FFF

Execution date: 5/30/2024

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RECORDING REQUESTED
BY AND WHEN
RECORDED RETURN TO:

Dentons US LLP
1221 Avenue of the Americas
New York, New York 10020
Attention: David S. Hall, Esq.

MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

BY

**THE ENTITIES LISTED ON SCHEDULE I ATTACHED HERETO,
as Borrower**

TO

**ATHENE ANNUITY AND LIFE COMPANY,
as Lender**

May 30, 2024

THE COLLATERAL SUBJECT TO THIS MORTGAGE, ASSIGNMENT, SECURITY AGREEMENT AND FIXTURE FILING INCLUDES GOODS THAT ARE OR ARE TO BECOME FIXTURES.

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING IS TO BE FILED IN THE REAL PROPERTY RECORDS FOR COOK COUNTY, AND SHALL SERVE AS A FIXTURE FILING FINANCING STATEMENT.

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THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "Security Instrument") is made as of the 30th day of May, 2024 by **THE ENTITIES LISTED ON SCHEDULE I ATTACHED HERETO**, each having its principal place of business at 2751 South Dixie Highway, Suite 450, West Palm Beach, FL 33405, as mortgagor (individually and/or collectively as the context may require, "Borrower") to **ATHENE ANNUITY AND LIFE COMPANY**, an Iowa corporation, having an address at 2121 Rosecrans Ave., Suite 5300, El Segundo, CA 90245, as mortgagee (together with its successors and assigns, "Lender").

RECITALS:

This Security Instrument is given to secure a loan (the "Loan") in the principal sum of ONE HUNDRED EIGHTY MILLION FIVE HUNDRED THIRTY-FIVE THOUSAND SEVENTEEN AND 00/100 DOLLARS (\$180,535,017.00) made pursuant to that certain Loan Agreement, dated as of the date hereof, between Borrower, certain other borrower entities named therein, and Lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Loan Agreement") and evidenced by that certain Promissory Note, dated the date hereof, made by Borrower and certain other borrower entities named therein, in favor of Lender (such Promissory Note, together with all extensions, renewals, replacements, restatements, amendments, supplements, severances or modifications thereof being hereinafter referred to as the "Note").

Borrower desires to secure the payment of the Debt (as defined in the Loan Agreement) and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents (as herein defined).

This Security Instrument is given pursuant to the Loan Agreement, and payment, fulfillment, and performance by Borrower and certain other borrower entities named in the Loan Agreement of their respective obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement, the Note, and that certain Assignment of Leases and Rents dated the date hereof made by Borrower in favor of Lender delivered in connection with this Security Instrument (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the "Assignment of Leases"), including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Security Instrument (the Loan Agreement, the Note, this Security Instrument, the Assignment of Leases and all other documents evidencing or securing the Debt (including all additional mortgages, deeds to secure debt and assignments of leases and rents) or executed or delivered in connection therewith, are hereinafter

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referred to collectively as the “Loan Documents”). All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Loan Agreement.

ARTICLE I. GRANTS OF SECURITY

Section 1.01 Property Mortgaged. Borrower does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to and grant a security interest to Lender and its successors and assigns in, the following property, rights, interests and estates now owned, or hereafter acquired by Borrower (collectively, the “Property”):

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

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

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

(d) Easements. All easements, rights-of-way or use, rights, strips and gores of land, streets, ways, alleys, passages, sewer rights, water, water courses, water rights and powers, air rights and development rights, and all estates, rights, titles, interests, privileges, liberties, servitudes, tenements, hereditaments and appurtenances of any nature whatsoever, in any way now or hereafter belonging, relating or pertaining to the Land and the Improvements and the reversion and reversions, remainder and remainders, and all land lying in the bed of any street, road or avenue, opened or proposed, in front of or adjoining the Land, to the center line thereof and all the estates, rights, titles, interests, dower and rights of dower, curtesy and rights of curtesy, property, possession, claim and demand whatsoever, both at law and in equity, of Borrower of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Fixtures and Personal Property. All machinery, equipment, fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures, inventory and goods) and other property of every kind and nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, and usable in connection with the present or future operation and occupancy of the Land and the Improvements and all building equipment, materials and supplies of any nature whatsoever owned by Borrower, or in which Borrower has or shall have an interest, now or hereafter located upon the Land and the Improvements, or appurtenant thereto, or usable in connection with the present or future operation and occupancy of the Land and the Improvements (collectively, the “Personal Property”), and the right, title and interest of Borrower in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the

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State or States where any of the Property is located (the "Uniform Commercial Code"), superior in lien to the lien of this Security Instrument and all proceeds and products of the above;

(f) Leases and Rents. All leases, subleases and other agreements, whether or not in writing, affecting the use, enjoyment or occupancy of the Land and/or the Improvements heretofore or hereafter entered into and all extensions, amendments and modifications thereto, whether before or after the filing by or against Borrower of any petition for relief under Title 11 U.S.C.A. § 101 et seq. and the regulations adopted and promulgated thereto (as the same may be amended from time to time, the "Bankruptcy Code") (the "Leases") and all right, title and interest of Borrower, its successors and assigns therein and thereunder, including, without limitation, any guaranties of the lessees' obligations thereunder, cash, letters of credit or securities deposited thereunder to secure the performance by the lessees of their obligations thereunder and all rents, additional rents, payments in connection with any termination, cancellation or surrender of any Lease, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and/or the Improvements whether paid or accruing before or after the filing by or against Borrower of any petition for relief under the Bankruptcy Code and all proceeds from the sale or other disposition of the Leases (the "Rents") and the right to receive and apply the Rents to the payment of the Debt;

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

(h) Insurance Proceeds. All proceeds of and any unearned premiums on any insurance policies covering the Property, including, without limitation, the right to receive and apply the proceeds of any insurance, judgments, or settlements made in lieu thereof, for damage to the Property;

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

(j) Conversion. All proceeds of the conversion, voluntary or involuntary, of any of the foregoing including, without limitation, proceeds of insurance and condemnation awards, into cash or liquidation claims;

(k) Rights. The right, in the name and on behalf of Borrower, to appear in and defend any action or proceeding brought with respect to the Property and to commence any action or proceeding to protect the interest of Lender in the Property;

(l) Agreements. All agreements, contracts, certificates, instruments, franchises, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use, occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest

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of Borrower therein and thereunder, including, without limitation, the right, upon the happening of any default hereunder, to receive and collect any sums payable to Borrower thereunder;

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

(n) Accounts. All Accounts, Account Collateral, reserves, escrows and deposit accounts maintained by Borrower with respect to the Property including, without limitation, the Lockbox Account and the Cash Management Account, and all complete securities, investments, property and financial assets held therein from time to time and all proceeds, products, distributions or dividends or substitutions thereon and thereof;

(o) Causes of Action. All causes of action and claims (including, without limitation, all causes of action or claims arising in tort, by contract, by fraud or by concealment of material fact) against any Person for damages or injury to the Property or in connection with any transactions financed in whole or in part by the proceeds of the Loan ("Cause of Action"); and

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

Section 1.02 Assignment of Leases and Rents. Borrower hereby absolutely and unconditionally assigns to Lender Borrower's right, title and interest in and to all current and future Leases and Rents; it being intended by Borrower that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to the terms of this Section 1.02 and the terms of the Loan Agreement, Lender grants to Borrower a revocable license to collect and receive the Rents. Borrower shall hold the Rents, or a portion thereof sufficient to discharge all current sums due on the Debt, for use in the payment of such sums.

Section 1.03 Security Agreement. This Security Instrument is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Borrower in the Property. By executing and delivering this Security Instrument, Borrower hereby grants to Lender, as security for the Obligations, (as herein defined) a security interest in the Personal Property, the Accounts, and the Account Collateral to the full extent that the Personal Property, the Accounts and the Account Collateral may be subject to the Uniform Commercial Code.

Section 1.04 Pledge of Monies Held. Borrower hereby pledges to Lender any and all monies now or hereafter held by Lender, including, without limitation, any sums deposited in the Reserve Funds, the Accounts, Net Proceeds and Awards, as additional security for the Obligations until expended or applied as provided in the Loan Agreement or this Security Instrument.

CONDITIONS TO GRANT

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

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PROVIDED, HOWEVER, these presents are upon the express condition that, if Borrower shall well and truly pay to Lender the Debt at the time and in the manner provided in the Note and this Security Instrument, shall well and truly perform the Other Obligations (as herein defined) as set forth in this Security Instrument and shall well and truly abide by and comply with each and every covenant and condition set forth herein, in the Note and in the Loan Agreement, these presents and the estate hereby granted shall cease, terminate and be void.

ARTICLE II. DEBT AND OBLIGATIONS SECURED

Section 2.01 Debt. This Security Instrument and the grants, assignments and transfers made in Article 1 are given for the purpose of securing the Debt, including without limitation,

(a) the payment of the indebtedness evidenced by the Note in lawful money of the United States of America;

(b) the payment of interest, default interest, late charges and other sums, as provided in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(c) the payment of the Yield Maintenance Premium, if any;

(d) the payment of all other moneys agreed or provided to be paid by Borrower in the Note, the Loan Agreement, this Security Instrument or the other Loan Documents;

(e) the payment of all sums advanced pursuant to the Loan Agreement or this Security Instrument to protect and preserve the Property and the lien and the security interest created hereby; and

(f) the payment of all sums advanced and costs and expenses incurred by Lender in connection with the Debt or any part thereof, any modification, amendment, renewal, extension, or change of or substitution for the Debt or any part thereof, or the acquisition or perfection of the security therefor, whether made or incurred at the request of Borrower or Lender.

Section 2.02 Other Obligations. This Security Instrument and the grants, assignments and transfers made in Article 1 are also given for the purpose of securing the following (the "Other Obligations"):

(a) the performance of all other obligations of Borrower contained herein;

(b) the performance of each obligation of Borrower contained in any other agreement given by Borrower to Lender which is for the purpose of further securing the obligations secured hereby, and any renewals, extensions, substitutions, replacements, amendments, modifications and changes thereto; and

(c) the performance of each obligation of Borrower contained in any renewal, extension, amendment, modification, consolidation, change of, or substitution or replacement for, all or any part of the Note, the Loan Agreement, this Security Instrument or the other Loan Documents.

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Section 2.03 Debt and Other Obligations. Borrower's obligations for the payment of the Debt and the performance of the Other Obligations shall be referred to collectively below as the "Obligations."

ARTICLE III. BORROWER COVENANTS

Borrower covenants and agrees that:

Section 3.01 Payment of Debt. Borrower will pay the Debt at the time and in the manner provided in the Note, the Loan Agreement and in this Security Instrument.

Section 3.02 Incorporation by Reference. All the covenants, conditions and agreements contained in the Loan Agreement, the Note and all and any of the other Loan Documents, are hereby made a part of this Security Instrument to the same extent and with the same force as if fully set forth herein.

Section 3.03 Insurance. Borrower shall obtain and maintain, or cause to be maintained, insurance in full force and effect at all times with respect to Borrower and the Property as required pursuant to the Loan Agreement.

Section 3.04 Payment of Taxes, e.c. Borrower shall promptly pay all Taxes and Other Charges in accordance with the terms of the Loan Agreement.

Section 3.05 Maintenance and Use of Property. Borrower shall cause the Property to be maintained in a good and safe condition and repair in accordance with the terms of the Loan Agreement. Subject to the terms of the Loan Agreement, the Improvements and the Personal Property shall not be removed, demolished or materially altered or expanded (except for normal replacement of the Personal Property) without the consent of Lender. Subject to the terms of the Loan Agreement, Borrower shall promptly repair, replace or rebuild any part of the Property which may be destroyed by any Casualty, or become damaged, worn or dilapidated or which may be affected by any Condemnation and shall complete and pay for any structure at any time in the process of construction or repair on the Land. Subject to the terms of the Loan Agreement, Borrower shall not initiate, join in, acquiesce in, or consent to any change in any private restrictive covenant, zoning law or other public or private restriction, limiting or defining the uses which may be made of the Property or any part thereof. If under applicable zoning provisions the use of all or any portion of the Property is or shall become a nonconforming use, Borrower will not cause or permit the nonconforming use to be discontinued or the nonconforming Improvement to be abandoned without the express written consent of Lender.

Section 3.06 Waste. Borrower shall not commit or suffer any waste of the Property or make any change in the use of the Property which will in any way materially increase the risk of fire or other hazard arising out of the operation of the Property, or take any action that might invalidate or give cause for cancellation of any Policy, or do or permit to be done thereon anything that may in any way impair the value of the Property or the security of this Security Instrument. Borrower will not, without the prior written consent of Lender, permit any drilling or exploration

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for or extraction, removal, or production of any minerals from the surface or the subsurface of the Land, regardless of the depth thereof or the method of mining or extraction thereof.

Section 3.07 Payment For Labor and Materials. Subject to Borrower's right to contest the same in accordance with the terms of the Loan Agreement, Borrower will promptly pay when due all bills and costs for labor, materials, and specifically fabricated materials incurred in connection with the Property and never permit to exist in respect of the Property or any part thereof any lien or security interest, even though inferior to the liens and the security interests hereof, and in any event never permit to be created or exist in respect of the Property or any part thereof any other or additional lien or security interest other than the liens or security interests hereof, except for the Permitted Encumbrances.

Section 3.08 Performance of Other Agreements. Borrower shall observe and perform each and every term to be observed or performed by Borrower pursuant to the terms of the Loan Agreement, any other Loan Documents and any agreement or recorded instrument affecting or pertaining to the Property, or given by Borrower to Lender for the purpose of further securing the Obligations and any amendments, modifications or changes thereto.

Section 3.09 Change of Name, Identity or Structure. Except as may be permitted under the Loan Agreement, Borrower will not change Borrower's name, identity (including its trade name or names) or corporate, partnership or other structure without first obtaining the prior written consent of Lender. Borrower hereby authorizes Lender, prior to or contemporaneously with the effective date of any such change, to file any financing statement or financing statement change required by Lender to establish or maintain the validity, perfection and priority of the security interest granted herein. At the request of Lender, Borrower shall execute a certificate in form satisfactory to Lender listing the trade names under which Borrower intends to operate the Property, and representing and warranting that Borrower does business under no other trade name with respect to the Property.

Section 3.10 Property Use. The Property shall be used only for self-storage purposes and any ancillary uses relating thereto, and for no other uses without the prior written consent of Lender, which consent may be withheld in Lender's sole and absolute discretion.

ARTICLE IV. REPRESENTATIONS AND WARRANTIES

Borrower represents and warrants to Lender that:

Section 4.01 Warranty of Title. Borrower has good title to the Property and has the right to mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey the same and that Borrower possesses a fee simple absolute estate in the Land and the Improvements and that it owns the Property free and clear of all liens, encumbrances and charges whatsoever except for the Permitted Encumbrances. The Permitted Encumbrances do not and will not materially adversely affect or interfere with the value, or materially adversely affect or interfere with the current use or operation, of the Property, or the security intended to be provided by this Security Instrument or the ability of Borrower to repay the Note or any other amount owing under the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents or to perform its obligations

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thereunder in accordance with the terms of the Loan Agreement, the Note, this Security Instrument or the other Loan Documents. This Security Instrument, when properly recorded in the appropriate records, together with the Assignment of Leases and any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (i) a valid, perfected first priority lien on the Property, subject only to Permitted Encumbrances and (ii) perfected security interests in and to, and perfected collateral assignments of, all personalty (including the Leases), all in accordance with the terms thereof, subject only to Permitted Encumbrances. The Assignment of Leases, when properly recorded in the appropriate records, creates a valid first priority assignment of, or a valid first priority security interest in, certain rights under the related Leases, subject only to a license granted to Borrower to exercise certain rights and to perform certain obligations of the lessor under such Leases, including the right to operate the Property. No Person other than Borrower owns any interest in any payments due under such Leases that is superior to or of equal priority with Lender's interest therein. Borrower shall forever warrant, defend and preserve the title and the validity and priority of the lien of this Security Instrument and shall forever warrant and defend the same to Lender against the claims of all persons whomsoever.

ARTICLE V. OBLIGATIONS AND RELIANCES

Section 5.01 Relationship of Borrower and Lender. The relationship between Borrower and Lender is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

Section 5.02 No Reliance on Lender. The members, general partners, principals and (if Borrower is a trust) beneficial owners of Borrower are experienced in the ownership and operation of properties similar to the Property, and Borrower and Lender are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Borrower is not relying on Lender's expertise, business acumen or advice in connection with the Property.

Section 5.03 No Lender Obligations.

(a) Notwithstanding the provisions of Section 1.01(f), (l) and (m) or Section 1.02 hereof, Lender is not undertaking the performance of (i) any obligations under the Leases; or (ii) any obligations with respect to such agreements, contracts, certificates, instruments, franchises, permits, trademarks, licenses and other documents.

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

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Section 5.04 Reliance. Borrower recognizes and acknowledges that in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, (i) Lender is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article 4 of the Loan Agreement and Articles 3 and 4 hereof without any obligation to investigate the Property and notwithstanding any investigation of the Property by Lender; (ii) that such reliance existed on the part of Lender prior to the date hereof; (iii) that the warranties and representations are a material inducement to Lender in accepting the Note, the Loan Agreement, this Security Instrument and the other Loan Documents; and (iv) that Lender would not be willing to make the Loan and accept this Security Instrument in the absence of the warranties and representations as set forth in Article 4 of the Loan Agreement and Articles 3 and 4 hereof.

ARTICLE VI. FURTHER ASSURANCES

Section 6.01 Recording of Security Instrument, etc. Borrower forthwith upon the execution and delivery of this Security Instrument and thereafter, from time to time, will cause this Security Instrument and any of the other Loan Documents creating a lien or security interest or evidencing the lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the lien or security interest hereof upon, and the interest of Lender in, the Property. Borrower will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, the Loan Agreement, this Security Instrument, the other Loan Documents, and any instrument of further assurance, and any modification or amendment of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Security Instrument, the other Loan Documents, or any instrument of further assurance, and any modification or amendment of the foregoing documents, except where prohibited by law so to do (other than, in each case, Excluded Taxes).

Section 6.02 Further Acts, etc. Borrower will, at the cost of Borrower, and without expense to Lender, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, mortgages, assignments, notices of assignment, transfers and assurances as Lender shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Lender the Property and rights hereby deeded, mortgaged, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Borrower may be or may hereafter become bound to convey or assign to Lender, or for carrying out the intention or facilitating the performance of the terms of this Security Instrument or for filing, registering or recording this Security Instrument, or for complying with all Legal Requirements. Borrower, on demand, will execute and deliver and hereby authorizes Lender to file one or more financing statements or execute in the name of Borrower to the extent Lender may lawfully do so, one or more chattel mortgages or other instruments, to evidence more effectively the security interest of Lender in the Property or any Collateral. Borrower grants to Lender an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Lender at law and in equity, including without limitation such rights and remedies available to Lender pursuant to this Section 6.02.

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Section 6.03 Changes in Tax, Debt Credit and Documentary Stamp Laws.

(a) If any law is enacted or adopted or amended after the date of this Security Instrument which deducts the Debt from the value of the Property for the purpose of taxation or which imposes a tax, either directly or indirectly, on the Debt or Lender's interest in the Property, Borrower will pay the tax, with interest and penalties thereon, if any. If Lender is advised by counsel chosen by it that the payment of tax by Borrower would be unlawful or taxable to Lender or unenforceable or provide the basis for a defense of usury, then Lender shall have the option, exercisable by written notice of not less than one hundred eighty (180) days to declare the Debt immediately due and payable.

(b) Borrower will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Security Instrument or the Debt. If such claim, credit or deduction shall be required by law, Lender shall have the option, exercisable by written notice of not less than one hundred eighty (180) days, to declare the Debt immediately due and payable.

(c) If at any time the United States of America, any State thereof or any subdivision of any such State shall require revenue or other stamps to be affixed to the Note, the Loan Agreement, this Security Instrument, or any of the other Loan Documents or impose any other tax or charge on the same (other than Excluded Taxes), Borrower will pay for the same, with interest and penalties thereon, if any.

Section 6.04 Replacement Documents. Upon receipt of an affidavit of an officer of Lender as to the loss, theft, destruction or mutilation of the Note or any other Loan Document which is not of public record, and, in the case of any such mutilation, upon surrender and cancellation of such Note or other Loan Documents, Borrower will issue, in lieu thereof, a replacement Note or other Loan Documents, dated the date of such lost, stolen, destroyed or mutilated Note or other Loan Documents in the same principal amount thereof and otherwise of like tenor.

Section 6.05 Performance at Borrower's Expense. Borrower acknowledges and confirms that Lender shall impose certain administrative processing and/or commitment fees in connection with (a) the extension, renewal, modification, amendment and termination of the Loan, (b) the release or substitution of collateral therefor, (c) obtaining certain consents, waivers and approvals with respect to the Property, or (d) the review of any Lease or proposed Lease or the preparation or review of any subordination, non-disturbance agreement (the occurrence of any of the above shall be called an "Event"). Borrower further acknowledges and confirms that it shall be responsible for the payment of all costs of reappraisal of the Property or any part thereof, whether required by law, regulation, Lender or any governmental or quasi-governmental authority. Borrower hereby acknowledges and agrees to pay, immediately, with or without demand, all such fees (as the same may be increased or decreased from time to time), and any additional fees of a similar type or nature which may be imposed by Lender from time to time, upon the occurrence of any Event. Wherever it is provided for herein that Borrower pay any costs and expenses, such costs and expenses shall include, but not be limited to, all legal fees and disbursements of Lender,

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whether with respect to retained firms, the reimbursement for the expenses of in-house staff or otherwise.

Section 6.06 Legal Fees for Enforcement. (a) Borrower shall pay all reasonable legal fees incurred by Lender in connection with the preparation of the Loan Agreement, the Note, this Security Instrument and the other Loan Documents and (b) Borrower shall pay to Lender within ten (10) Business Days of written demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Lender in protecting its interest in the Property or in collecting any amount payable hereunder or in enforcing its rights hereunder with respect to the Property (including commencing any foreclosure action), whether or not any legal proceeding is commenced hereunder or thereunder, together with interest thereon at the Default Rate from the date paid or incurred by Lender until such expenses are paid by Borrower.

ARTICLE VII. DUE ON SALE/ENCUMBRANCE

Section 7.01 Lender Reliance. Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Property in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Property as a means of maintaining the value of the Property as security for repayment of the Debt and the performance of the Other Obligations. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Property so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the Other Obligations, Lender can recover the Debt by a sale of the Property.

Section 7.02 No Sale/Encumbrance. Neither Borrower nor any Restricted Party shall Transfer the Property or any part thereof or any interest therein or permit or suffer the Property or any part thereof or any interest therein to be Transferred other than as expressly permitted pursuant to the terms of the Loan Agreement.

ARTICLE VIII. PREPAYMENT

Section 8.01 Prepayment. The Debt may not be prepaid in whole or in part except in accordance with the express terms and conditions of the Loan Agreement.

ARTICLE IX. RIGHTS AND REMEDIES

Section 9.01 Remedies. Upon the occurrence and during the continuance of any Event of Default, Borrower agrees that Lender may, take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Borrower and in and to the Property, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as Lender may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Lender:

- (a) declare the entire unpaid Debt to be immediately due and payable;

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(b) institute proceedings, judicial or otherwise, for the complete foreclosure of this Security Instrument under any applicable provision of law in which case the Property or any interest therein may be sold for cash or upon credit in one or more parcels or in several interests or portions and in any order or manner;

(c) with or without entry, to the extent permitted and pursuant to the procedures provided by Applicable Law, institute proceedings for the partial foreclosure of this Security Instrument for the portion of the Debt then due and payable, subject to the continuing lien and security interest of this Security Instrument for the balance of the Debt not then due, unimpaired and without loss of priority;

(d) sell for cash or upon credit the Property or any part thereof and all estate, claim, demand, right, title and interest of Borrower therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, in one or more parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law;

(e) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein, in the Note, the Loan Agreement, or in the other Loan Documents;

(f) recover judgment on the Note either before, during or after any proceedings for the enforcement of this Security Instrument or the other Loan Documents;

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Borrower, any Guarantor or of any person, firm or other entity liable for the payment of the Debt;

(h) subject to any Applicable Law, the license granted to Borrower under Section 1.02 hereof shall automatically be revoked and Lender may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Borrower and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Borrower and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Borrower agrees to surrender possession of the Property and of such books, records and accounts to Lender upon demand, and thereupon Lender may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct business thereon; (ii) complete any construction on the Property in such manner and form as Lender deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Borrower with respect to the Property, whether in the name of Borrower or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants, and demand, sue for, collect and receive all Rents of the Property and every part thereof; (v) require Borrower to pay monthly in advance to Lender, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Borrower; (vi) require Borrower to vacate and surrender possession of the Property to Lender or to such receiver and, in default thereof, Borrower may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment of the Debt, in such order,

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priority and proportions as Lender shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes (other than Excluded Taxes), Other Charges, Insurance Premiums and other expenses in connection with the Property, as well as just and reasonable compensation for the services of Lender, its counsel, agents and employees;

(i) exercise any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing: (i) the right to take possession of any Collateral (including, without limitation, the Personal Property) or any part thereof, and to take such other measures as Lender may deem necessary for the care, protection and preservation of the Collateral (including without limitation, the Personal Property), and (ii) request Borrower at its expense to assemble the Collateral, including without limitation, the Personal Property, and make it available to Lender at a convenient place acceptable to Lender. Any notice of sale, disposition or other intended action by Lender with respect to the Collateral, including without limitation, the Personal Property, sent to Borrower in accordance with the provisions hereof at least ten (10) days prior to such action, shall constitute commercially reasonable notice to Borrower;

(j) apply any sums then deposited in the Accounts and any other sums held in escrow or otherwise by Lender in accordance with the terms of this Security Instrument, the Loan Agreement, or any other Loan Documents to the payment of the following items in any order in its sole discretion:

- (i) Taxes and Other Charges;
- (ii) Insurance Premiums;
- (iii) interest on the unpaid principal balance of the Note;
- (iv) amortization of the unpaid principal balance of the Note; or
- (v) all other sums payable pursuant to the Note, the Loan Agreement, this Security Instrument and the other Loan Documents, including without limitation advances made by Lender pursuant to the terms of this Security Instrument;

(k) surrender the Policies, collect the unearned Insurance Premiums and apply such sums as a credit on the Debt in such priority and proportion as Lender in its discretion shall deem proper, and in connection therewith, Borrower hereby appoints Lender as agent and attorney-in-fact (which is coupled with an interest and is therefore irrevocable) for Borrower to collect such Insurance Premiums;

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

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(m) foreclose by filing a foreclosure action or otherwise and apply the proceeds of any recovery to the Debt in accordance with Section 9.02 or to any deficiency under this Security Instrument;

(n) exercise all rights and remedies under any Causes of Action, whether before or after any sale of the Property by foreclosure or otherwise and apply the proceeds of any recovery to the Debt in accordance with Section 9.02 or to any deficiency under this Security Instrument; or

(o) pursue such other remedies as Lender may have under Applicable Law. In the event of a sale, by foreclosure or otherwise, of less than all of the Property, this Security Instrument shall continue as a lien and security interest on the remaining portion of the Property unimpaired and without loss of priority.

Section 9.02 Application of Proceeds. The purchase money proceeds and avails of any disposition of the Property, or any part thereof, or any other sums collected by Lender pursuant to the Note, this Security Instrument, the Loan Agreement, or the other Loan Documents, may be applied by Lender to the payment of the Debt in such priority and proportions as Lender in its discretion shall deem proper.

Section 9.03 Right to Cure Defaults. Upon the occurrence and during the continuance of any Default or Event of Default, Lender may, but without any obligation to do so and without notice to or demand on Borrower and without releasing Borrower from any obligation hereunder, make or do such actions in such manner and to such extent as Lender may deem necessary to protect the security hereof. Lender is authorized to enter upon the Property for such purposes, or appear in, defend, or bring any action or proceeding to protect its interest in the Property or to foreclose this Security Instrument or collect the Debt. The cost and expense of any cure hereunder (including reasonable attorneys' fees to the extent permitted by law), with interest as provided below, shall constitute a portion of the Debt and shall be due and payable to Lender upon demand. All such costs and expenses incurred by Lender in remedying such Default or Event of Default shall bear interest at the Default Rate for the period after notice from Lender that such cost or expense was incurred to the date of payment to Lender and shall be deemed to constitute a portion of the Debt and be secured by this Security Instrument and the other Loan Documents and shall be due and payable within ten (10) Business Days of demand by Lender therefor.

Section 9.04 Actions and Proceedings. Lender has the right to appear in and defend any action or proceeding brought with respect to the Property and, after the occurrence and during the continuance of an Event of Default, to bring any action or proceeding, in the name and on behalf of Borrower, which Lender, in its discretion, decides should be brought to protect its interest in the Property.

Section 9.05 Recovery of Sums Required To Be Paid. Lender shall have the right from time to time to take action to recover any sum or sums which constitute a part of the Debt as the same become due, without regard to whether or not the balance of the Debt shall be due, and without prejudice to the right of Lender thereafter to bring an action of foreclosure, or any other action, for an Event of Default by Borrower existing at the time such earlier action was commenced.

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Section 9.06 Other Rights, etc.

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

(b) It is agreed that the risk of loss or damage to the Property is on Borrower, and Lender shall have no liability whatsoever for decline in value of the Property, for failure to maintain the Policies, or for failure to determine whether insurance in force is adequate as to the amount of risks insured. Possession by Lender shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to the Property or any other Collateral not in Lender's possession.

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

Section 9.07 Right to Release Any Portion of the Property. Lender may release any portion of the Property for such consideration as Lender may require without, as to the remainder of the Property, in any way impairing or affecting the lien or priority of this Security Instrument, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the obligations hereunder shall have been reduced by the actual monetary consideration, if any, received by Lender for such release, and may accept by assignment, pledge or otherwise any other property in place thereof as Lender may require without being accountable for so doing to any other lienholder. This Security Instrument shall continue as a lien and security interest in the remaining portion of the Property.

Section 9.08 Violation of Laws. If the Property is not in compliance with Legal Requirements, Lender may impose additional requirements upon Borrower in connection herewith including, without limitation, monetary reserves or financial equivalents.

Section 9.09 Right of Entry. Subject to the terms of the Loan Agreement, Lender and its agents shall have the right to enter and inspect the Property at all reasonable times, upon reasonable notice.

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Section 9.10 Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the rights, claims, liens, titles, and interests existing against the Property heretofore held by, or in favor of, the holder of such indebtedness and such former rights, claims, liens, titles, and interests, if any, are not waived but rather are continued in full force and effect in favor of Lender and are merged with the lien and security interest created herein as cumulative security for the repayment of the Debt, and the performance and discharge of the Obligations.

ARTICLE X. INDEMNIFICATIONS

Section 10.01 General Indemnification. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following: (a) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (b) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (c) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (d) any failure of the Property to be in compliance with any Legal Requirements; (e) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any Lease; or (f) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the Loan evidenced by the Note and secured by this Security Instrument. Any amounts payable to Lender by reason of the application of this Section 10.01 shall become immediately due and payable and shall bear interest at the Default Rate from the date three (3) Business Days after notice to Borrower that Lender demands payments of such loss or damage is sustained by Lender until paid. Notwithstanding the foregoing, Borrower shall not be liable for any Loss sustained by Lender as a result of Lender's bad faith, gross negligence or willful misconduct.

Section 10.02 Security Instrument and/or Intangible Tax. Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Indemnified Parties from and against any and all Losses imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any tax (excluding Excluded Taxes) on the making and/or recording of this Security Instrument, the Loan Agreement, the Note or any other Loan Document.

Section 10.03 Environmental Indemnity. Simultaneously with this Security Instrument, Borrower and Guarantor have executed and delivered the Environmental Indemnity.

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ARTICLE XI. WAIVERS

Section 11.01 Waiver of Counterclaim. Borrower hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Lender arising out of or in any way connected with this Security Instrument, the Note, the Loan Agreement, any of the other Loan Documents, or the Obligations.

Section 11.02 Marshalling and Other Matters. Borrower hereby waives, to the extent permitted by law, the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshalling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, Borrower hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Security Instrument on behalf of Borrower, and on behalf of each Person acquiring any interest in or title to the Property subsequent to the date of this Security Instrument and on behalf of all persons to the extent permitted by Legal Requirements.

Section 11.03 Waiver of Notice. Borrower shall not be entitled to any notices of any nature whatsoever from Lender except (a) with respect to matters for which this Security Instrument, the Loan Agreement or any other Loan Document, specifically and expressly provides for the giving of notice by Lender to Borrower, and (b) with respect to matters for which Lender is required by any Applicable Law to give notice, and Borrower hereby expressly waives the right to receive any notice from Lender with respect to any matter for which this Security Instrument does not specifically and expressly provide for the giving of notice by Lender to Borrower.

Section 11.04 Waiver of Statute of Limitations. Borrower hereby expressly waives and releases to the fullest extent permitted by law, the pleading of any statute of limitations as a defense to payment of the Debt or performance of its Other Obligations.

Section 11.05 Sole Discretion of Lender. Wherever pursuant to this Security Instrument (a) Lender exercises any right given to it to approve or disapprove, (b) any arrangement or term is to be satisfactory to Lender, or (c) any other decision or determination is to be made by Lender, the decision of Lender to approve or disapprove, all decisions that arrangements or terms are satisfactory or not satisfactory and all other decisions and determinations made by Lender, shall be in the sole and absolute discretion of Lender, except as may be otherwise expressly and specifically provided herein or in any of the other Loan Documents.

ARTICLE XII. EXCULPATION

Section 12.01 Exculpation. Notwithstanding anything to the contrary contained in this Security Instrument, the liability of Borrower to pay the Debt and for the performance of the other agreements, covenants and obligations contained herein and in the Note, the Loan Agreement and the other Loan Documents shall be limited as set forth in Section 9.4 of the Loan Agreement.

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ARTICLE XIII. SUBMISSION TO JURISDICTION

Section 13.01 Submission to Jurisdiction. This Security Instrument shall be governed in accordance with the terms and provisions of Section 10.3 of the Loan Agreement.

ARTICLE XIV. APPLICABLE LAW

Section 14.01 CHOICE OF LAW. THIS SECURITY INSTRUMENT SHALL BE DEEMED TO BE A CONTRACT ENTERED INTO PURSUANT TO THE LAWS OF THE STATE OF NEW YORK AND SHALL IN ALL RESPECTS BE GOVERNED, CONSTRUED, APPLIED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, PROVIDED HOWEVER, THAT WITH RESPECT TO THE CREATION, PERFECTION, PRIORITY AND ENFORCEMENT OF THE LIEN OF THIS SECURITY INSTRUMENT, AND THE DETERMINATION OF DEFICIENCY JUDGMENTS, THE LAWS OF THE STATE WHERE THE PROPERTY IS LOCATED SHALL APPLY.

Section 14.02 Provisions Subject to Applicable Law. All rights, powers and remedies provided in this Security Instrument may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Security Instrument invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any Legal Requirements.

ARTICLE XV. DEFINITIONS

Section 15.01 General Definitions. Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Security Instrument may be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Lender" shall mean "Lender and any subsequent holder of the Note," the word "Note," shall mean "the Note and any other evidence of indebtedness secured by this Security Instrument," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "legal fees", "attorneys' fees" and "counsel fees" shall include any and all reasonable attorneys', paralegal and law clerk fees and disbursements, including, but not limited to, fees and disbursements at the pre-trial, trial and appellate levels incurred or paid by Lender in protecting its interest in the Property, the Leases and the Rents and enforcing its rights hereunder.

Section 15.02 Headings, etc. The headings and captions of various Articles and Sections of this Security Instrument are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

ARTICLE XVI. MISCELLANEOUS PROVISIONS

Section 16.01 No Oral Change. This Security Instrument and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any

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act or failure to act on the part of Borrower or Lender, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

Section 16.02 Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder shall be joint and several. This Security Instrument shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever.

Section 16.03 Inapplicable Provisions. If any term, covenant or condition of this Security Instrument or any other Loan Document, is held to be invalid, illegal or unenforceable in any respect, the Note and this Security Instrument or the other Loan Documents, as the case may be, shall be construed without such provision.

Section 16.04 Duplicate Originals; Counterparts. This Security Instrument may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Security Instrument may be executed in several counterparts, each of which counterparts shall be deemed an original instrument and all of which together shall constitute a single Security Instrument. The failure of any party hereto to execute this Security Instrument, or any counterpart hereof, shall not relieve the other signatories from their obligations hereunder.

Section 16.05 Number and Gender. Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

Section 16.06 Notices. All notices required or permitted under this Security Instrument shall be given and be effective in accordance with Section 10.6 of the Loan Agreement.

ARTICLE XVII. CROSS-COLLATERALIZATION

Section 17.01 Cross-Collateralization. Borrower acknowledges that the Debt is secured by this Security Instrument together with those additional Security Instruments given by Borrower and/or certain Affiliates of Borrower to Lender, together with their respective Assignments of Leases and other Loan Documents securing or evidencing the Debt, and encumbering the other Individual Properties, all as more specifically set forth in the Loan Agreement. Upon the occurrence and during the continuance of an Event of Default, Lender shall have the right to institute a proceeding or proceedings for the total or partial foreclosure of this Security Instrument and any or all of the other Security Instruments whether by court action, power of sale or otherwise, under any applicable provision of law, for all of the Debt or the portion of the Debt allocated to the Property in the Loan Agreement, and the lien and the security interest created by the other Security Instruments shall continue in full force and effect without loss of priority as a lien and security interest securing the payment of that portion of the Debt then due and payable but still outstanding. Borrower acknowledges and agrees that the Property and the other Individual Properties are located in one or more States and counties, and therefore Lender shall be permitted to enforce payment of the Debt and the performance of any term, covenant or condition of the Note, this Security Instrument, the Loan Documents or the other Security Instruments and exercise

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any and all rights and remedies under the Note, this Security Instrument, the other Loan Documents or the other Security Instruments, or as provided by law or at equity, by one or more proceedings, whether contemporaneous, consecutive or both, to be determined by Lender, in its sole discretion, in any one or more of the States or counties in which the Property or any other Individual Property is located. Neither the acceptance of this Security Instrument, the other Loan Documents or the other Security Instruments nor the enforcement thereof in any one State or county, whether by court action, foreclosure, power of sale or otherwise, shall prejudice or in any way limit or preclude enforcement by court action, foreclosure, power of sale or otherwise, of the Note, this Security Instrument, the other Loan Documents, or any other Security Instruments through one or more additional proceedings in that State or county or in any other State or county. Any and all sums received by Lender under the Note, this Security Instrument, and the other Loan Documents shall be applied to the Debt in such order and priority as Lender shall determine, in its sole discretion, without regard to the Allocated Loan Amount for the Property or any other Individual Property or the appraised value of the Property or any Individual Property.

ARTICLE XVIII. STATE SPECIFIC PROVISIONS

Section 18.01 Inconsistencies. In the event of any inconsistencies between the terms and conditions of this Article 18 and the other provisions of this Security Instrument (other than Section 12.01), the terms and conditions of this Article 18 shall control and be binding.

Section 18.02 Protective Advances. Without limitation on anything contained in this Security Instrument, all reasonable advances, disbursements and expenditures made by Lender in accordance with the terms of this Security Instrument and the other Loan Documents before and during a foreclosure of this Security Instrument, and before and after a judgment of foreclosure, and at any time prior to sale of the Property, and, where applicable, after sale of the Property and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Security Instrument or by the Illinois Mortgage Foreclosure Act, 735 ILCS 5/15-1101 et seq. (the "Act"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act referred to below (collectively, "Protective Advances"):

(a) all reasonable advances by Lender in accordance with the terms of this Security Instrument or other Loan Documents to: (A) preserve or maintain, repair, restore or rebuild any improvements upon the Property; (B) preserve the lien of this Security Instrument or the priority thereof; or (C) enforce this Security Instrument, as referred to in Subsection (b)(5) of Section 15-1302 of the Act;

(b) payments by Lender of: (i) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance on the Property; (ii) prior to delinquency 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 Property or any part thereof; (iv) other obligations authorized by this Security Instrument; or (iii) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 15-1505 of the Act;

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(c) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any prior liens;

(d) reasonable attorneys' fees and other expenses incurred: (i) in connection with the foreclosure of this Security Instrument as referred to in Section 15-1504(d)(2) and 15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against Lender for the enforcement of this Security Instrument or arising from the interest of Lender hereunder; or (C) in the preparation for the commencement or defense of any such foreclosure or other action related to this Security Instrument or the Property;

(e) Lender's reasonable out-of-pocket fees and costs, including reasonable attorneys' fees, arising between the entry of judgment of foreclosure and confirmation hearing as referred to in Subsection (b)(1) of Section 15-1508 of the Act;

(f) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 15-1512 of the Act;

(g) reasonable out-of-pocket expenses incurred and expenditures made by Lender for any one or more of the following: (i) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof; (ii) if Borrower's interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (iii) premiums for casualty and liability insurance paid by Lender whether or not Lender 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 Lender takes possession of the Property as imposed by subsection (c)(1) of Section 15-1704 of the Act; (iv) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (v) payments required or deemed by Lender to be required for the benefit of the Property or required to be made by the owner of the 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 Property; (vi) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member if in any way affecting the Property; (vii) as may be authorized by the applicable Loan Documents, costs incurred by Lender for demolition, preparation for and completion of construction; (viii) payments required to be paid by the Borrower or any Other Borrowers or; and (ix) pursuant to any lease or other agreement, for occupancy of the Property;

All Protective Advances shall be additional Debt secured by this Security Instrument, and shall become due and payable within ten (10) days after written notice to Borrower or any other borrowers and with interest thereon from the expiration of such 10-day period from the date of written demand until paid at the Default Rate. This Security Instrument shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Security Instrument is recorded pursuant to subsection (b) of Section 15-1302 of the Act. All Protective Advances shall, except to the extent, if any, that any of the same are clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in: (i) determination of the amount of Debt secured by this Security Instrument at any time; (ii) the amount of the Debt found due and owing to Lender in a judgment of foreclosure and any subsequent, supplemental

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judgments, orders, adjudications or findings by any court of any additional Debt becoming due after such entry of judgment (it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose): (iii) if right of redemption is deemed not to be waived by this Security Instrument, computation of any amounts required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5-1603 of the Act; (iv) determination of amounts deductible from sale proceeds pursuant to Section 15-1512 of the Act; (v) application of income in the hands of any receiver or Lender in possession; and (vi) computation of any deficiency judgment pursuant to subsections (b) (2) and (e) of Sections 15-1508 and 15-1511 of the Act.

Section 18.03 Use of Proceeds. Borrower represents and agrees that the Debt is exempt from the limitation upon the amount of interest that may be charged under 815 ILCS 205/4 for one or more of the reasons set forth in such statute, and the Debt constitutes a business loan which comes within the purview of 815 ILCS 205/4.

Section 18.04 Limitation On Debt. It is expressly understood and agreed that the Debt will in no event exceed two hundred percent (200%) of (i) the total face amount of the Note plus (ii) the total interest which may hereafter accrue under the Note on such face amount.

Section 18.05 Waiver of Homestead and Redemption. Borrower releases and waives all rights under the homestead and exemption laws of the State of Illinois. Borrower acknowledges that the Property does not include "agricultural real estate" or "residential real estate" as those terms are defined in 735 ILCS 5/15-1201 and 5/15-1219. Pursuant to 735 ILCS 5/15-1601(b) Borrower waives any and all rights of redemption from sale under any order of foreclosure of this Security Instrument or other rights of redemption which may run to Borrower or any other "Owner of Redemption", as that term is defined in 735 ILCS 5/15-1212. Borrower waives all rights of reinstatement under 735 ILCS 5/15-1602 to the fullest extent permitted by Illinois law.

Section 18.06 Business Loan Recital/Statutory Exemption. Borrower acknowledges and agrees that (A) the proceeds of the Loan will be used in conformance with subparagraph (1)(c) of Section 4 of the Illinois Interest Act (815 ILCS 205/0.01, et seq.); (B) the Debt secured hereby has been incurred by Borrower solely for business purposes of Borrower and for Borrower's investment or profit, as contemplated by said Section 4(1)(c); (C) Debt secured hereby constitutes a loan secured by real estate within the purview of and as contemplated by said Sections 4(1)(c) and (1); and (D) the secured Debt is an exempted transaction under the Truth-in-Lending Act, 15 U.S.C. Sec. 1601 *et. seq.* and has been entered into solely for business purposes of Borrower and Borrower's investment or profit, as contemplated by said section.

(b) Without limiting the generality of anything contained herein, Borrower acknowledges and agrees that the transaction of which this Security Instrument is part is a transaction which does not include either agricultural real estate (as defined in 15-1201 of the Act) or residential real estate (as defined in 15-1219 of the Act).

Section 18.07 Lender in Possession. In addition to any provision of this Security Instrument authorizing the Lender to take or be placed in possession of the Property, or for the appointment of a receiver, Lender shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Act, to be placed in possession of the Property or at its request to have a receiver appointed, and such receiver, or Lender, if and when placed in possession, shall have, in addition

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to any other powers provided in this Security Instrument, all powers, immunities, and duties as provided for in Sections 15-1701 and 15-1703 of the Act.

Section 18.08 Illinois Mortgage Foreclosure Act. It is the express intention of Lender and Borrower that the rights, remedies, powers and authorities conferred upon Lender pursuant to this Security Instrument shall include all rights, remedies, powers and authorities that a mortgagor may confer upon a mortgagee under the Act and/or as otherwise permitted by applicable law, as if they were expressly provided for herein, to the extent the same are not inconsistent with the express terms of this Security Instrument. In the event that any provisions in this Security Instrument are deemed inconsistent with any provision in the Act, the provisions of the Act shall take precedence over the provisions of this Security Instrument, but shall not invalidate or render unenforceable any other provision of this Security Instrument that can be construed in a manner consistent with the Act.

Section 18.09 Collateral Protection Act. Pursuant to the requirements of the Illinois Collateral Protection Act, Borrower is hereby notified as follows: Unless the Borrower provides Lender with evidence of the insurance coverage required by this Security Instrument, the Loan Agreement or any of the other Loan Documents, Lender may purchase insurance at Borrower's expense to protect Lender's interest in the or any other collateral for the Debt. This insurance may, but need not protect Borrower's interests. The coverage Lender purchases may not pay any claim that Borrower makes or any claim that is made against Borrower in connection with the Property or any other collateral for the Debt. Borrower may later cancel any insurance purchased by Lender but only after providing Lender with evidence that Borrower has obtained insurance as required by this Security Instrument, the Loan Agreement or any of the other Loan Documents. If Lender purchases insurance for the Property or any other collateral for the Debt, Borrower will be responsible for the costs of that insurance, including interest and any other charges that Lender may lawfully impose in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The cost of the insurance may be added to the Debt and future Debt secured hereunder. The costs of the insurance may be more than the cost of insurance that Borrower may be able to obtain on its own.

Section 18.10 WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER AND LENDER HEREBY WAIVE THEIR RESPECTIVE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING AND/OR HEARING ON ANY MATTER WHATSOEVER ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THE NOTE, THIS MORTGAGE OR ANY OF THE LOAN DOCUMENTS, OR THE ENFORCEMENT OF ANY REMEDY UNDER ANY LAW, STATUTE, OR REGULATION. NEITHER PARTY WILL SEEK TO CONSOLIDATE ANY SUCH ACTION IN WHICH A JURY HAS BEEN WAIVED, WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. EACH PARTY HAS RECEIVED THE ADVICE OF COUNSEL WITH RESPECT TO THIS WAIVER.

Section 18.11 Sealed Instrument. Borrower intends for this Security Instrument to be executed and delivered by Borrower, and accepted by Lender, as a sealed instrument.

Section 18.12 Maturity Date. The initial stated maturity date is June 8, 2029.

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SCHEDULE I

BORROWERS

<u>Entity Name</u>
FAM Self-Storage – 21, LLC, a Delaware limited liability company, as successor by conversion to, and formerly known as FAM.Self-Storage – 21 DST, a Delaware statutory trust
Red Dot Storage 94 (19301 Glenwood), LLC, a Delaware limited liability company, as successor by conversion to, and formerly known as Red Dot Storage 94 (19301 Glenwood), LLC, an Illinois limited liability company.

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EXHIBIT A

(LIST OF PROPERTIES)

Address	City	State	County
23150 Governors Highway	Richton Park	Illinois	Cook
19301 Chicago Heights Glenwood Road	Glenwood	Illinois	Cook

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EXHIBIT A-1

Legal Description

LOTS 3, 4, 22 AND 23 IN BLOCK 4 IN TREMBLY'S RICHTON PARK ESTATES, IN THE SOUTH EAST QUARTER OF SECTION 34, TOWNSHIP 35 NORTH, RANGE 13, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Property Address: 23150 Governors Highway, Richton Park, IL 60471

PIN(s): 31-34-405-018-0000

31-34-405-019-0000

31-34-405-022-0000

31-34-405-023-0000

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EXHIBIT A-2

Legal Description

PARCEL 1:

A TRACT OF LAND COMPRISING PART OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON A LINE DRAWN PERPENDICULAR TO THE NORTH LINE OF SAID SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, SAID PERPENDICULAR LINE PASSING THROUGH A POINT ON SAID NORTH LINE, A DISTANCE OF 227.51 FEET EAST OF THE INTERSECTION OF SAID NORTH LINE WITH THE CENTER LINE OF GLENWOOD ROAD, AND SAID POINT OF BEGINNING BEING 194 FEET SOUTH OF SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9; THENCE SOUTH ALONG SAID PERPENDICULAR LINE, A DISTANCE OF 154 FEET; THENCE WEST PARALLEL WITH SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9; A DISTANCE OF 343.61 FEET TO SAID CENTER LINE OF GLENWOOD ROAD; THENCE NORTHEASTERLY ALONG SAID CENTER LINE, A DISTANCE OF 162.34 FEET TO AN INTERSECTION WITH A LINE DRAWN PARALLEL WITH AND 194 FEET SOUTH OF SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9; THENCE EAST ALONG LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 292.23 FEET TO THE POINT OF BEGINNING (EXCEPT PART TAKEN FOR GLENWOOD ROAD).

PARCEL 2:

A TRACT OF LAND COMPRISING PART OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9 WITH THE CENTER LINE OF GLENWOOD ROAD; AND RUNNING THENCE EAST ALONG SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, A DISTANCE OF 227.51 FEET; THENCE SOUTH, PERPENDICULAR TO SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST OF SECTION 9, A DISTANCE OF 194 FEET; THENCE WEST PARALLEL WITH SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, A DISTANCE OF 292.23 FEET TO SAID CENTER LINE OF GLENWOOD ROAD; THENCE NORTHEASTERLY ALONG SAID CENTER LINE, A DISTANCE OF 204.51 FEET TO THE POINT OF BEGINNING (EXCEPT PART TAKEN FOR GLENWOOD ROAD).

PARCEL 3:

A TRACT OF LAND COMPRISING PART OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9; SAID POINT BEING 227.51 FEET EAST OF THE INTERSECTION OF SAID "NORTH LINE" WITH THE CENTER LINE OF GLENWOOD ROAD; AND RUNNING THENCE EAST ALONG SAID "NORTH LINE" A DISTANCE OF 200 FEET; THENCE SOUTH PERPENDICULAR TO SAID "NORTH LINE" A DISTANCE OF 550 FEET TO THE NORTH LINE

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OF 194TH STREET, AS HERETOFORE DEDICATED; THENCE WEST PARALLEL TO SAID NORTH LINE OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9 AND ALONG SAID NORTH LINE OF 194TH STREET, A DISTANCE OF 200 FEET; THENCE NORTH PERPENDICULAR TO SAID, NORTH LINE OF 194TH STREET, A DISTANCE OF 550 FEET TO THE POINT OF BEGINNING. (EXCEPTING THEREFROM THE SOUTH 202.00 FEET THEREOF).

THE ABOVE 3 PARCELS ALSO DESCRIBED AS THE FOLLOWING TRACT: A TRACT OF LAND COMPRISING PART OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 9, TOWNSHIP 35 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, COOK COUNTY, ILLINOIS, SAID TRACT OF LAND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF SAID SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9 WITH THE CENTER LINE OF GLENWOOD ROAD; AND RUNNING THENCE EAST ALONG SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, A DISTANCE OF 34.80 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING EAST ALONG SAID NORTH LINE A DISTANCE OF 392.71 FEET; THENCE SOUTH, PERPENDICULAR TO SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, A DISTANCE OF 348 FEET; THENCE WEST PARALLEL WITH SAID NORTH LINE OF SOUTH 1/2 OF NORTHWEST 1/4 OF SECTION 9, A DISTANCE OF 509.14 FEET TO THE RIGHT OF WAY LINE OF GLENWOOD ROAD; THENCE NORTHEASTERLY ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 366.96 FEET TO THE POINT OF BEGINNING; ALL SITUATED IN COOK COUNTY, ILLINOIS

Property Address: 19301 Chicago Heights Glenwood Road, Glenwood, IL 60425
PIN(s): 32-09-102-020-0000; 32-09-102-021-0000, 32-09-102-028-0000