

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES SECURITIES AND  
EXCHANGE COMMISSION,

Plaintiff,

v.

EQUITYBUILD, INC., et al.,

Defendants.

Case No. 1:18-cv-5587

Hon. Manish S. Shah

Magistrate Judge Young B. Kim

**POSITION STATEMENT OF CLAIMANT  
MIDLAND LOAN SERVICES (PROPERTY 49, 7300-04 ST. LAWRENCE AVENUE)**

Claimant Midland Loan Services, a Division of PNC Bank N.A., as servicer for Wilmington Trust, N.A., as Trustee for the Benefit of Corevest American Finance 2017-1 Trust Mortgage Pass Through Certificates (“Midland”), pursuant to Docket Entries 941, 1551, and 1614, submits this Position Statement regarding the Group 5 property located at 7300-04 St. Lawrence Avenue (“7300 Lawrence”).

**RELEVANT FACTUAL BACKGROUND**

Midland is a claimant holding a perfected security interest in 7300 Lawrence, as the assignee of a mortgage recorded with the Cook County Recorder of Deeds on June 28, 2017. (Exhibit A.) That mortgage secured a loan in the amount of \$1,491,000 issued by lender Colony American Finance Lender LLC to borrower EB South Chicago 3 LLC.<sup>1</sup> *Id.* On October 31, 2017,

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<sup>1</sup> This loan was cross-collateralized among six properties for which EB South Chicago 3 LLC was the borrower. Four of the other properties have settled out of the Receivership (Properties 45-48); the one remaining property, Property 50, remains pending and is in Group 6. The cross-collateralization language of the applicable mortgage indicates that Midland is entitled to collect the full balance for the entire loan against any one property individually. (*See e.g.*, Exhibit A at § 7.01(d)(ii) (“Mortgagee shall be entitled to elect to proceed against any or all of the Real Property,” defined on page 30 as Properties 45-50).) Accordingly, Midland rejects the Receiver’s

that mortgage was assigned to Wilmington Trust. That assignment was recorded on December 29, 2017. (Exhibit B.)<sup>2</sup> Midland is Wilmington Trust’s servicer for the 7300 Lawrence loan.<sup>3</sup> At the time of its assignment, and at all times prior to these receivership proceedings, Midland had no knowledge, constructive, actual, or otherwise, that Equitybuild or its affiliates were engaged in any fraud or wrongdoing of any kind, including in relation to 7300 Lawrence.

The individual investor claimants assert security interests in 7300 Lawrence through a \$618,603 mortgage recorded on November 17, 2015. (*See* Dkt. 1626, Exhibit 9 (“Equitybuild Mortgage”).) The recorded mortgage lists “EquityBuild Finance LLC” as the lender and “EquityBuild, Inc.” as the borrower. *Id.* The mortgage attached to the recording indicates “This Security Instrument is given to The Persons Listed on Exhibit A to the Mortgage C/O Equitybuild Finance, LLC.” *Id.* at 2. This mortgage interest was never released. (Dkt. 1626 at 2.) Though the mortgage is stamped as recorded with the Cook County Recorder of Deeds, it does not appear in the chain of title in the Cook County Recorder of Deeds’ records. (*See* Declaration from M. Napoli, Exhibit F.) Further, all but one of the individual lenders listed on “Exhibit A” rolled over their loans into another investment, thus relinquishing their secured interests in 7300 Lawrence.

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recommendation to provide “allocations” by property. (*See* Dkt. 1626 at 3, Exhibit 5 (“Allocated to 7300-04 St Lawrence Avenue,” “Allocated to Property”).)

Further, in no case is the “allocation” of principal by property less than the segregated proceeds reportedly available for distribution in the Group 5 properties, and which the Receiver recommends Midland is entitled to receive. The Court therefore need not consider the legal or mathematical impact of cross-collateralization at this time, but Midland reserves all rights to seek full recovery against any property in each cross-collateralization should it become apparent that segregated proceeds are available to do so or on any other ground that becomes apparent to Midland during Group 6 proceedings (though the segregated proceeds appear to be less than the allocation amounts Midland predicts the Receiver would assign to Group 6 properties as well).

<sup>2</sup> The mortgage was assigned to Wilmington Trust after a series of assignments. (*See* Exhibits C-E, and Exhibit B).

<sup>3</sup> For ease of reference, references to “Midland” in this brief are inclusive of Wilmington Trust unless otherwise specified.

On March 20, 2024, the Receiver filed his Submission to assist the Court in resolving the Group 5 claims asserted against four properties, including 7300 Lawrence. (Dkt. 1626.) As to 7300 Lawrence, the Receiver recommends that a single investor lender’s claim—specifically SD Roth IRA Miss Property, LLC’s (“Miss Property”) \$3,627.68 claim less \$1,258.56 in interest, for a total of \$2,369.02—has priority over Midland’s claim and that Midland’s claim is in second position. (*Id.* at 2.) For the reasons that follow, Midland does not contest the Receiver’s priority recommendation and accepts the Receiver’s proposed distribution for purposes of efficient resolution of claims against 7300 Lawrence.

### **ARGUMENT**

#### **I. Midland Does Not Contest the Receiver’s Priority Recommendation.**

The Receiver recommends that all but one of the individual investors listed in the Equitybuild Mortgage documents relinquished their secured interest in the property “by agreeing to roll their loan to another investment.” (Dkt. 1626 at 3.) Specifically, the Receiver contends that one individual investor—Miss Property—retained a remaining secured interest of \$3,627.58 in 7300 Lawrence (inclusive of interest), and should be paid only the principal of its secured interest, \$2,369.02. *Id.*

The priority of parties’ respective security interests is a question of law. *Travelers Ins. Co. v. First Nat’l Bank*, 250 Ill. App. 3d 641, 644-45 (1st Dist. 1993). Generally, to ensure that a party has a first priority security interest, the party’s interest must be first to attach and/or be perfected. *See USS-UPI, LLC v. Millenia Prods. Grp., Inc.*, 2023 IL App (3d) 220283-U, ¶ 14. With respect to mortgages, Illinois’ Conveyances Act codifies the long-standing rule that a mortgage “becomes effective when it is recorded.” *Firstmark Standard Life Ins. Co. v. Superior Bank FSB*, 271 Ill. App. 3d 435, 439 (1st Dist. 1995) (citing 765 ILCS 5/30). Likewise, recording a mortgage creates

a mortgage lien in the first instance. 735 ILCS 5/15-1301. The Conveyances Act further establishes Illinois as

a race-notice jurisdiction, which means that the first to record, without notice, has superior rights to those who record later. . . . The reason for this is that the first to give notice of its lien on real property has the senior lien, and, by recording the mortgage with the recorder of deeds, the individual filing that mortgage is said to give ‘constructive notice’ of its lien to all others.

*In re Bruder*, 207 B.R. 151, 156 (N.D. Ill. Bankr. 1997) (citations omitted). The “underlying principle regarding priority of mortgage liens is that the first party to give notice of its lien on real property has the senior lien. Thus, where any party has actual or constructive notice of a prior lien, it will ordinarily take subject to that lien.” *Skidmore, Owings & Merrill v. Pathway Financial.*, 173 Ill. App. 3d 512, 514 (3d Dist. 1988).

It is further well established that “the assignee of the debt, takes the security by the assignment, in the same condition, and to the extent it was held by the payee, at the time of the assignment, as a security for the debt assigned, and succeeds under it, to all the rights of the assignor.” *Sargent v. Howe*, 21 Ill. 147, 149-50 (1859) (“There can be no question of the payee or assignee, to foreclose a mortgage given to secure the payment . . .”).

Here, due to the relatively small amount available for distribution and for purposes of efficient resolution of the claims against 7300 Lawrence, Midland does not contest<sup>4</sup> the Receiver’s recommendation that Miss Property has a first position secured interest in 7300 Lawrence.<sup>5</sup>

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<sup>4</sup> To be clear, by not contesting the Receiver’s priority recommendation Midland is not waiving and expressly reserves any arguments it may have on similar grounds as to other claimants and properties.

<sup>5</sup> Midland notes that although it does not contest the Receiver’s priority recommendation, it is not clear that Miss Property in fact retained any security interest in 7300 Lawrence. Specifically, in July 2017, Miss Property executed an Amended and Restated Unsecured Promissory Note through which Miss Property agreed to terminate the October 9, 2015 secured note, eliminate its secured interest in 7300 Lawrence, and replace the note with a principal amount of \$2,996.42 in exchange for a \$3,627.58 payment from Equitybuild. (*See Exhibit G.*) While the Receiver contends that the

However, to the extent the Court disagrees with the Receiver's recommendation and concludes other individual investors, other than Miss Property, have secured first priority claims to 7300 Lawrence, Midland alternatively asserts it has priority to the funds liquidated by the Receiver's sale of 7300 Lawrence because the individual investors' earlier mortgage (the basis of any purported security interest) was mis-indexed, and does not appear in the chain of title for 7300 Lawrence. (*See* Exhibit F.) As a result, Midland did not have actual or constructive notice of the prior mortgage and took its mortgage assignment in good faith.

For the reasons stated, and assuming the Court agrees with the Receiver's priority recommendation, Midland does not contest the Receiver's priority recommendation.

**II. Though Secured Claimants, including Midland, Are Entitled to Full Satisfaction of their Secured Liens, Midland Accepts the Receiver's Distribution Recommendation.**

The Receiver concludes the amount of Miss Property's secured claim on 7300 Lawrence is \$3,627.58, but recommends Miss Property receive a distribution of \$2,369.02—which is the remaining \$3,627.58 of Miss Property's secured claim, less \$1,258.56 in interest. (Dkt. 1626 at 3.) After making the distribution on Miss Property's claim, the Receiver recommends that the balance of the funds held in the property account for 7300 Lawrence “be used to repay most of the portion of Midland's mortgage.” (*Id.*) Specifically, the Receiver recommends Midland receive its principal, less certain hold backs including interest and fees. (*See id.* at Exhibit 5.) The Receiver argues this Court has equitable authority to limit Midland's recovery in this manner. Midland does

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\$3,627.58 payment was never made, nothing in the amended and restated promissory note conditions the release of Miss Property's mortgage interest on receipt of that payment. (*Id.*) Miss Property is therefore arguably an unsecured creditor even with respect to the amount the Receiver recommends it receive.

not agree with the Receiver on this point. Equity does not authorize the Court to limit Midland's recovery of its secured interest in 7300 Lawrence.<sup>6</sup>

However, given the limited funds available for distribution, solely for purposes of resolving the claims against 7300 Lawrence, Midland accepts the Receiver's distribution recommendation. Specifically, Midland accepts the Receiver's recommendation that Miss Property should receive a distribution of \$2,369.02,<sup>7</sup> with the balance of the funds available in the 7300 Lawrence account going to satisfy Midland's secured interest in 7300 Lawrence.

### CONCLUSION

For the aforementioned reasons, Midland, as the only remaining secured claimant after Miss Property, is entitled to receive the balance of the funds liquidated by the Receiver's sale of 7300 Lawrence.

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<sup>6</sup> A secured creditor like Midland is entitled to complete recovery of its secured interest as authorized under Illinois law. The notion that the Court may override a secured mortgagee's rights in the name of equity violates the fundamental precept that equity follows law. *See, e.g., In re BNT Terminals, Inc.*, 1991 Bankr. LEXIS 421, \*20 (Bankr. N.D. Ill. Feb. 21, 1991) (declining to reinstate liens "premised upon 'basic concepts of equity'" because "equity follows law and [defendant's] lawyers have failed to articulate what the basic concepts of equity are that the Court should apply."); *see also Proimos v. Fair Automotive Repair, Inc.*, 808 F.2d 1273, 1275 (7th Cir. 1987) (considering legal entitlement to an injunction, noting "[e]quity is no longer granted or withheld according to the chancellor's sensibilities and his regard for the uprightness of the parties."). Further, at least one Special Master's recommendation (adopted in full by the court) has explicitly considered whether the law permits a court to ignore or override state law entitlements, including the right to interest, in the name of equity in the context of a receivership. *In re Real Prop. Located at [Redacted] Jupiter Drive*, confirms courts **do not** have such broad authority. No. 2:05-CV-01013-DB, 2007 WL 7652383, 2007 U.S. Dist. LEXIS 65276, \*10 (Utah D. Ct. Jun. 7, 2007) ("It is well-established that a 'receiver appointed by a federal court takes [a] property subject to all liens, priorities or privileges existing or accruing under the laws of the State.") (quoting *Marshall v. New York*, 254 U.S. 380, 385 (1920)). Similarly, though not applicable here given the limited funds available for distribution, the Receiver has not met his burden of proof that the Ponzi scheme presumption applies to Midland's loan such that the "netting rule" would apply to limit recovery of Midland's principal. *See SEC v. Mgmt. Solutions, Inc.*, 2013 U.S. Dist. LEXIS 120277 (D. Utah Aug. 22, 2013).

<sup>7</sup> Assuming the Court agrees Miss Property is a secured claimant, Miss Property would similarly be entitled to recovery of its entire secured interest, not limited to the principal.

Dated: April 10, 2024

Respectfully submitted,

/s/ Andrew R. DeVooght

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*Attorneys for Claimant Midland Loan Services, a Division of PNC Bank N.A., as servicer for Wilmington Trust, N.A., as Trustee for the Benefit of Corevest American Finance 2017-1 Trust Mortgage Pass Through Certificates*

# **EXHIBIT A**



203

**Illinois Anti-Predatory  
Lending Database  
Program**

**Certificate of Exemption**

**Report Mortgage Fraud  
800-532-8785**



Doc# 1717922020 Fee \$114.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 06/28/2017 10:31 AM PG: 1 OF 32

The property identified as: **PIN: 20-30-104-004-0000**

**Address:**

**Street:** 2129 W 71ST ST

**Street line 2:**

**City:** CHICAGO

**State:** IL

**ZIP Code:** 60636

**Lender:** COLONY AMERICAN FINANCE LENDER LLC

**Borrower:** EB SOUTH CHICAGO 3 LLC

**Loan / Mortgage Amount:** \$1,491,000.00

This property is located within the program area and is exempt from the requirements of 765 ILCS 77/70 et seq. because it is not owner-occupied.

**Certificate number:** D1ECC954-9C82-4029-B81A-33B604244B1B

**Execution date:** 5/25/2017

PREPARED BY:  
Colony American Finance  
c/o Michelle Aileen Fallis  
1920 Main St., Suite 850  
Irvine, CA 92614

UPON RECORDATION RETURN TO:  
OS National, LLC  
2170 Satellite Blvd., Suite 200  
Duluth, GA 30097  
(770) 497-9100

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

**EB SOUTH CHICAGO 3 LLC**  
(Mortgagor)

to

**COLONY AMERICAN FINANCE LENDER, LLC**  
(Mortgagee)

Dated: As of May 26, 2017

County: Cook

State: Illinois

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

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (this "*Mortgage*") is made as of May 26, 2017, by EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company, as mortgagor, having an address at 201 N Westshore Dr., Ste 1501, Chicago, IL 60601 ("*Mortgagor*"), for the benefit of COLONY AMERICAN FINANCE LENDER, LLC, a Delaware limited liability company, as mortgagee, having an address at c/o Colony Capital, LLC, 515 South Flower Street, 44th Floor, Los Angeles, CA 90071 Attn: General Counsel (together with its successors and/or assigns, "*Mortgagee*").

**WITNESSETH:**

A. This Mortgage is given to secure a commercial loan (the "*Loan*") in the principal sum of ONE MILLION FOUR HUNDRED NINETY-ONE THOUSAND AND NO/100 DOLLARS (\$1,491,000.00) or so much thereof as may be advanced pursuant to that certain Loan Agreement dated as of the date hereof by and between Mortgagor and Mortgagee (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 Mortgagor to Mortgagee (such Promissory Note, together with all extensions, renewals, replacements, restatements or modifications thereof, being hereinafter referred to as the "*Note*"). Capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement.

B. Mortgagor desires to secure the payment of the outstanding principal amount of the Loan together with all interest accrued and unpaid thereon and all other sums (including the Spread Maintenance Premium) due to Mortgagee in respect of the Loan under the Note, the Loan Agreement and the other Loan Documents (the "*Debt*") and the performance of all of its obligations under the Note, the Loan Agreement and the other Loan Documents.

C. This Mortgage is given pursuant to the Loan Agreement, and payment, fulfillment and performance by Mortgagor of its obligations thereunder and under the other Loan Documents are secured hereby, and each and every term and provision of the Loan Agreement and the Note, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties therein, are hereby incorporated by reference herein as though set forth in full and shall be considered a part of this Mortgage.

NOW THEREFORE, in consideration of the making of the Loan by Mortgagee and the covenants, agreements, representations and warranties set forth in this Mortgage and other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Mortgagor:

## ARTICLE I.

### GRANTS OF SECURITY

**Section 1.01 Property Mortgaged.** Mortgagor does hereby irrevocably mortgage, grant, bargain, sell, pledge, assign, warrant, transfer and convey to Mortgagee and its successors and assigns, all right, title, interest and estate of Mortgagor now owned, or hereafter acquired by Mortgagor, in and to the following (collectively, the "*Property*"):

(a) Land. The real property located in the State of Illinois (the "State") identified on **Schedule 1** attached hereto and made a part hereof and more particularly described in **Exhibit A** inclusive, attached hereto and made a part hereof (collectively, the "*Land*");

(b) Additional Land. All additional lands, estates and development rights hereafter acquired by Mortgagor 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 deed of trust or mortgage or otherwise be expressly made subject to the lien of this Mortgage;

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

(d) 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 Mortgagor of, in and to the Land and the Improvements and every part and parcel thereof, with the appurtenances thereto;

(e) Equipment. All "equipment," as such term is defined in **Article 9** of the Uniform Commercial Code (as hereinafter defined), now owned or hereafter acquired by Mortgagor, which is used at or in connection with the Improvements or the Land or is located thereon or therein (including, but not limited to, all machinery, equipment, furnishings, and electronic data-processing and other office equipment now owned or hereafter acquired by Mortgagor and any and all additions, substitutions and replacements of any of the foregoing), together with all attachments, components, parts, equipment and accessories installed thereon or affixed thereto (collectively, the "*Equipment*"). Notwithstanding the foregoing, Equipment shall not include any property belonging to Tenants under Leases except to the extent that Mortgagor shall have any right or interest therein;

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

(g) Personal Property. All furniture, furnishings, objects of art, machinery, goods, tools, equipment, supplies, appliances, general intangibles, contract rights, accounts, accounts receivable, franchises, licenses, certificates and permits, and all other personal property of any kind or character whatsoever (as defined in and subject to the provisions of the Uniform Commercial Code), other than Fixtures, which are now or hereafter owned by Mortgagor and which are located within or about the Land and the Improvements, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof (collectively, the "**Personal Property**"), and the right, title and interest of Mortgagor in and to any of the Personal Property which may be subject to any security interests, as defined in the Uniform Commercial Code, as adopted and enacted by the State (as amended from time to time, the "**Uniform Commercial Code**"), superior in lien to the lien of this Mortgage, and all proceeds and products of any of the above;

(h) Leases and Rents. (i) All leases, subleases or subsubleases, lettings, licenses, concessions or other agreements (whether written or oral) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of the Land and the Improvements, and every modification, amendment, extension, renewal, replacement, or other agreement relating to such leases, subleases, subsubleases, or other agreements entered into in connection with such leases, subleases, subsubleases, or other agreements and every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto, heretofore or hereafter entered into, whether before or after the filing by or against Mortgagor of any petition for relief under 11 U.S.C. §101 et seq., as the same may be amended from time to time (the "**Bankruptcy Code**") (collectively, the "**Leases**"); (ii) all right, title and interest of Mortgagor, its successors and assigns, therein and thereunder, including, without limitation, cash or securities deposited thereunder to secure the performance by

the lessees of their obligations thereunder and all rents, additional rents, revenues, issues and profits (including all oil and gas or other mineral royalties and bonuses) from the Land and the Improvements, whether paid or accruing before or after the filing by or against Mortgagor of any petition for relief under the Bankruptcy Code (collectively, the “*Rents*”); (iii) all proceeds from the sale or other disposition of the Leases and the right to receive and apply the Rents to the payment and performance of the Obligations, including the payment of the Debt; (iv) all of Mortgagor’s right, title and interest in, and claims under, any and all lease guaranties, letters of credit and any other credit support (individually, a “*Lease Guaranty*”, and collectively, the “*Lease Guaranties*”) given by any guarantor in connection with any of the Leases or leasing commissions (individually, a “*Lease Guarantor*”, and collectively, the “*Lease Guarantors*”) to Mortgagor; (v) all rights, powers, privileges, options and other benefits of Mortgagor as the lessor under any of the Leases and the beneficiary under any of the Lease Guaranties, including, without limitation, the immediate and continuing right to make claims for, and to receive, collect and acknowledge receipt for all Rents payable or receivable under the Leases and all sums payable under the Lease Guaranties or pursuant thereto (and to apply the same to the payment of the Debt or the Other Obligations), and to do all other things which Mortgagor or any lessor is or may become entitled to do under any of the Leases or Lease Guaranties; (vi) the right, subject to the provisions of the Loan Agreement, at Mortgagee’s option, upon revocation of the license granted herein, to enter upon the Property in person, by agent or by court-appointed receiver, to collect the Rents; (vii) during the continuance of an Event of Default, Mortgagor’s irrevocable power of attorney, coupled with an interest, to take any or all other actions designated by Mortgagee for the proper management and preservation of the Land and Improvements; and (viii) any and all other rights of Mortgagor in and to the items set forth in subsections (i) through (vii) above, and all amendments, modifications, replacements, renewals and substitutions thereof;

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

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

(k) Tax Certiorari. All refunds, rebates or credits in connection with any reduction in Taxes or Other Charges assessed against the Property as a result of tax certiorari proceedings or any other applications or proceedings for reduction;

(l) Rights. The right, in the name and on behalf of Mortgagor, 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 Mortgagee in the Property;

(m) Agreements. All agreements, contracts, certificates, instruments, franchises, management agreements, permits, licenses, plans, specifications and other documents, now or hereafter entered into, and all rights therein and thereto, respecting or pertaining to the use,

occupation, construction, management or operation of the Land and any part thereof and any Improvements or respecting any business or activity conducted on the Land and any part thereof and all right, title and interest of Mortgagor therein and thereunder, including, without limitation, the right, upon the happening and during the continuance of any Event of Default, to receive and collect any sums payable to Mortgagor thereunder;

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

(o) Accounts. All reserves, escrows and deposit accounts maintained by Mortgagor with respect to the Property, together with all deposits or wire transfers made to such accounts, and all cash, checks, drafts, certificates, securities, investment property, financial assets, instruments and other property held therein from time to time, and all proceeds, products, distributions, dividends and/or substitutions thereon and thereof, excluding the following (the "*Account Collateral*"): all reserves, escrows and deposit accounts in which a security interest is granted to Mortgagee pursuant to the Loan Agreement and all amounts at any time contained therein and the proceeds thereof;

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

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

(r) All Other Assets. All other accounts, general intangibles, instruments, investment property, documents, chattel paper, goods, moneys, letters of credit, letter of credit rights, certificates of deposit, deposit accounts, escrow deposits, commercial tort claims, oil, gas and minerals, and all other property and interests in property of Mortgagor, whether tangible or intangible, and including without limitation all of Mortgagor's claims and rights to the payment of damages arising under the Bankruptcy Code ("*Bankruptcy Claims*"), excluding the Account Collateral;

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

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

AND, without limiting any of the other provisions of this Mortgage, to the extent permitted by applicable law, Mortgagor expressly grants to Mortgagee, as secured party, a security interest in all of Mortgagor's right, title and interest in and to that portion of the Property which is or may be subject to the provisions of the Uniform Commercial Code which are applicable to secured transactions; it being understood and agreed that the Improvements and Fixtures are part and parcel of the Land (the Land, the Improvements and the Fixtures collectively referred to as the "*Real Property*") appropriated to the use thereof and, whether affixed or annexed to the Land or not,

shall for the purposes of this Mortgage be deemed conclusively to be real estate and mortgaged hereby.

It is hereby acknowledged and agreed that Mortgagor has granted a security interest to Mortgagee in the Account Collateral pursuant to the Loan Agreement. Notwithstanding anything to the contrary contained herein, Mortgagee's security interest in the Account Collateral shall be governed by the Loan Agreement and not this Mortgage.

**Section 1.02 Assignment of Rents.**

(a) Mortgagor hereby absolutely and unconditionally assigns to Mortgagee all of Mortgagor's right, title and interest in and to all current and future Leases, Rents, Lease Guaranties and Bankruptcy Claims; it being intended by Mortgagor that this assignment constitutes a present, absolute assignment and not an assignment for additional security only. Nevertheless, subject to any applicable deposit account control agreement, the Loan Agreement and the terms of this Mortgage, Mortgagee grants to Mortgagor, so long as no Event of Default has occurred and is continuing, a revocable license to (and Mortgagor shall have the right to) collect, receive, use and enjoy the Rents, as well as any sums due under the Lease Guaranties. Mortgagor shall hold the Rents, as well as all sums received pursuant to any Lease Guaranty, or a portion thereof sufficient to discharge all current sums due on the Debt, in trust for the benefit of Mortgagee for use in the payment of such sums. This assignment is effective without any further or supplemental assignment documents.

(b) Mortgagor hereby authorizes and directs the lessees named in the Leases, any other future lessees or occupants of the Real Property and all Lease Guarantors to pay over to Mortgagee or to such other party as Mortgagee directs all Rents and all sums due under any Lease Guaranties, upon such lessee's receipt from Mortgagee of written notice to the effect that Mortgagee is then the holder of this assignment. Such Rents shall be disbursed and/or applied in accordance with the terms of the Loan Agreement. In furtherance of the foregoing, Mortgagor hereby grants to Mortgagee an irrevocable power of attorney, coupled with an interest, to execute and deliver, on behalf of Mortgagor, to tenants under current and future Leases and counterparties to Lease Guaranties, direction letters to deliver all Rents and all sums due under any Lease Guaranties directly to Mortgagee. Any exercise of the foregoing power of attorney shall constitute an immediate revocation of the revocable license given pursuant to Section 1.02(a).

**Section 1.03 Security Agreement.** This Mortgage is both a real property mortgage and a "security agreement" within the meaning of the Uniform Commercial Code. The Property includes both real and personal property and all other rights and interests, whether tangible or intangible in nature, of Mortgagor in the Property. By executing and delivering this Mortgage, Mortgagor hereby grants to Mortgagee, as security for the Obligations, a security interest in the Fixtures, the Equipment, the Personal Property and the other property constituting the Property to the full extent that the Fixtures, the Equipment, the Personal Property and such other property may be subject to the Uniform Commercial Code (said portion of the Property so subject to the Uniform Commercial Code being called the "*Collateral*"). If an Event of Default shall occur and be continuing, Mortgagee, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the



generality of the foregoing, the right to take possession of the Collateral or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Collateral. Upon request or demand of Mortgagee after the occurrence and during the continuance of an Event of Default, Mortgagor shall, at its expense, assemble the Collateral and make it available to Mortgagee at a convenient place (at the Land if tangible property) reasonably acceptable to Mortgagee. Mortgagor shall pay to Mortgagee, on demand, any and all expenses, including reasonable attorneys' fees and costs, incurred or paid by Mortgagee in protecting its interest in the Collateral and in enforcing its rights hereunder with respect to the Collateral after the occurrence and during the continuance of an Event of Default. Any notice of sale, disposition or other intended action by Mortgagee with respect to the Collateral sent to Mortgagor in accordance with the provisions hereof at least ten (10) days prior to such action, shall, except as otherwise provided by applicable law or the Loan Agreement, constitute reasonable notice to Mortgagor. The proceeds of any disposition of the Collateral, or any part thereof, may, except as otherwise required by applicable law, be applied by Mortgagee to the payment of the Debt in such priority and proportions as Mortgagee in its discretion shall deem proper. The principal place of business of Mortgagor (Debtor) is as set forth in the preamble of this Mortgage and the address of Mortgagee (Secured Party) is as set forth in the preamble of this Mortgage.

**Section 1.04 Fixture Filing.** Certain of the Property is or will become "fixtures" (as that term is defined in the Uniform Commercial Code) on the Land, described or referred to in this Mortgage, and this Mortgage, upon being filed for record in the real estate records of the city or county wherein such fixtures are situated, shall operate also as a financing statement naming Mortgagor as the Debtor and Mortgagee as the Secured Party filed as a fixture filing in accordance with the applicable provisions of said Uniform Commercial Code upon such of the Property that is or may become fixtures. This Security Instrument constitutes a fixture filing in accordance with the Uniform Commercial Code. For this purpose, the respective addresses of Mortgagor, as debtor, and Mortgagee, as secured party, are as set forth in the preamble to 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 Mortgagee and its successors and assigns, forever;

PROVIDED, HOWEVER, these presents are upon the express condition that, if Mortgagor shall well and truly pay and perform the Obligations (including the payment of the Debt) at the time and in the manner provided in this Mortgage, the Note, the Loan Agreement and the other Loan Documents, and shall well and truly abide by and comply with each and every covenant and condition set forth herein and in the Note, the Loan Agreement and the other Loan Documents, these presents and the estate hereby granted shall cease, terminate and be void; provided, however, that, subject to Section 9.06, Mortgagor's obligation to indemnify and hold harmless Mortgagee pursuant to the provisions hereof shall survive any such payment or release.

## ARTICLE II.

### DEBT AND OBLIGATIONS SECURED

**Section 2.01 Obligations.** This Mortgage and the grants, assignments and transfers made in Article I are given for the purpose of securing the Obligations, including, but not limited to, the Debt.

**Section 2.02 Other Obligations.** This Mortgage and the grants, assignments and transfers made in Article I are also given for the purpose of securing the following (collectively, the "***Other Obligations***"):

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

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

**Section 2.04 Variable Interest Rate.** The Loan secured by this Mortgage may be a variable interest rate loan if so provided in the Loan Agreement.

**Section 2.05 Loan Repayment.** Provided no Event of Default exists, this Mortgage will be satisfied and discharged of record by Mortgagee in accordance with the terms and provisions set forth in the Loan Agreement.

**Section 2.06 Other Mortgages; No Election of Remedies.**

(a) The Debt is now or may hereafter be secured by one or more other mortgages, deeds to secure debt, deeds of trust and other security agreements (collectively, as the same may be amended, restated, replaced, supplemented, extended, renewed or otherwise modified and in effect from time to time, are herein collectively called the "***Other Mortgages***"), which cover or will hereafter cover other properties that are or may be located in various states and in other Counties in the State (collectively, the "***Other Collateral***"). The Other Mortgages will secure the Debt and the performance of the other covenants and agreements of Mortgagor set forth in the Loan Documents. Upon the occurrence and during the continuance of an Event of Default, Mortgagee may proceed under this Mortgage and/or any or all the Other Mortgages against either the Property and/or any or all the Other Collateral in one or more parcels and in such manner and order as Mortgagee shall elect. Mortgagor hereby irrevocably waives and releases, to the extent permitted by law, and whether now or hereafter in force, any right to have the Property and/or the Other Collateral marshaled upon any foreclosure of this Mortgage or any Other Mortgage.

(b) Without limiting the generality of the foregoing, and without limitation as to any other right or remedy provided to Mortgagee in this Mortgage or the other Loan Documents, in the case and during the continuance of an Event of Default (i) Mortgagee shall have the right to

pursue all of its rights and remedies under this Mortgage and the Loan Documents, at law and/or in equity, in one proceeding, or separately and independently in separate proceedings from time to time, as Mortgagee, in its sole and absolute discretion, shall determine from time to time, (ii) Mortgagee shall not be required to either marshal assets, sell the Property and/or any Other Collateral in any particular order of alienation (and may sell the same simultaneously and together or separately), or be subject to any “one action” or “election of remedies” law or rule with respect to the Property and/or any Other Collateral, (iii) the exercise by Mortgagee of any remedies against any one item of Property and/or any Other Collateral will not impede Mortgagee from subsequently or simultaneously exercising remedies against any other item of Property and/or Other Collateral, (iv) all liens and other rights, remedies or privileges provided to Mortgagee herein shall remain in full force and effect until Mortgagee has exhausted all of its remedies against the Property and all Property has been foreclosed, sold and/or otherwise realized upon in satisfaction of the Debt, and (v) Mortgagee may resort for the payment of the Debt to any security held by Mortgagee in such order and manner as Mortgagee, in its discretion, may elect and Mortgagee may take action to recover the Debt, or any portion thereof, or to enforce any covenant hereof without prejudice to the right of Mortgagee thereafter to foreclose this Mortgage.

(c) Without notice to or consent of Mortgagor and without impairment of the lien and rights created by this Mortgage, Mortgagee may, at any time (in its sole and absolute discretion, but Mortgagee shall have no obligation to), execute and deliver to Mortgagor a written instrument releasing all or a portion of the lien of this Mortgage as security for any or all of the Obligations now existing or hereafter arising under or in respect of the Note, the Loan Agreement and each of the other Loan Documents, whereupon following the execution and delivery by Mortgagee to Mortgagor of any such written instrument of release, this Mortgage shall no longer secure such Obligations so released.

### ARTICLE III.

#### MORTGAGOR COVENANTS

Mortgagor covenants and agrees that throughout the term of the Loan:

**Section 3.01 Payment of Debt.** Mortgagor will pay the Debt at the time and in the manner provided in the Loan Agreement, the Note and this Mortgage.

**Section 3.02 Incorporation by Reference.** All the covenants, conditions and agreements contained in (a) the Loan Agreement, (b) the Note, and (c) all and any of the other Loan Documents, are hereby made a part of this Mortgage to the same extent and with the same force as if fully set forth herein. In the event of any inconsistency between any of the terms of this Mortgage (including the terms of Section 1.03 herein) and the Loan Agreement, the terms of the Loan Agreement shall control. Without limiting the generality of the foregoing, Mortgagor (i) agrees to insure, repair, maintain and restore damage to the Property, pay Taxes and Other Charges assessed against the Property, and comply with Legal Requirements, in accordance with the Loan Agreement, and (ii) agrees that the proceeds of insurance and condemnation awards shall be settled, held, applied and/or disbursed in accordance with the Loan Agreement.

**Section 3.03 Performance of Other Agreements.** Mortgagor shall observe and perform each and every term, covenant and provision to be observed or performed by Mortgagor pursuant to the Loan Agreement, any other Loan Document and any other agreement or recorded instrument affecting or pertaining to the Property, and any amendments, modifications or changes thereto.

#### ARTICLE IV.

#### OBLIGATIONS AND RELIANCES

**Section 4.01 Relationship of Mortgagor and Mortgagee.** The relationship between Mortgagor and Mortgagee is solely that of debtor and creditor, and Mortgagee has no fiduciary or other special relationship with Mortgagor, and no term or condition of any of the Loan Agreement, the Note, this Mortgage or the other Loan Documents shall be construed so as to deem the relationship between Mortgagor and Mortgagee to be other than that of debtor and creditor.

**Section 4.02 No Reliance on Mortgagee.** The general partners, members, principals and (if Mortgagor is a trust) beneficial owners of Mortgagor, as applicable, are experienced in the ownership and operation of properties similar to the Property, and Mortgagor and Mortgagee are relying solely upon such expertise and business plan in connection with the ownership and operation of the Property. Mortgagor is not relying on Mortgagee's expertise, business acumen or advice in connection with the Property.

**Section 4.03 No Mortgagee Obligations.**

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

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

**Section 4.04 Reliance.** Mortgagor recognizes and acknowledges that in accepting the Loan Agreement, the Note, this Mortgage and the other Loan Documents, Mortgagee is expressly and primarily relying on the truth and accuracy of the warranties and representations set forth in Article V of the Loan Agreement without any obligation to investigate the Property and notwithstanding any investigation of the Property by Mortgagee; that such reliance existed on the part of Mortgagee prior to the date hereof; that the warranties and representations are a material inducement to Mortgagee in making the Loan; and that Mortgagee would not be willing to make the Loan and accept this Mortgage in the absence of the warranties and representations as set forth in Article V of the Loan Agreement.

## ARTICLE V.

### FURTHER ASSURANCES

**Section 5.01 Recording of Mortgage, Etc.** Mortgagor forthwith upon the execution and delivery of this Mortgage and thereafter, from time to time, will cause this Mortgage and any of the other Loan Documents creating a Lien or security interest or evidencing the Lien hereof upon the Property and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect and perfect the Lien or security interest hereof upon, and the interest of Mortgagee in, the Property. Mortgagor will pay all taxes, filing, registration or recording fees, and all expenses incident to the preparation, execution, acknowledgment and/or recording of the Note, this Mortgage, the other Loan Documents, any note, deed to secure debt, deed of trust or mortgage supplemental hereto, any security instrument with respect to the Property and any instrument of further assurance, and any modification or amendment of any of the foregoing documents, and all federal, state, county and municipal taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any deed of trust, deed to secure debt or mortgage supplemental hereto, any security instrument with respect to the Property or any instrument of further assurance, and any modification or amendment of any of the foregoing documents, except where prohibited by law so to do.

**Section 5.02 Further Acts, Etc.** Mortgagor will, at the cost of Mortgagor, and without expense to Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, deeds of trust, deeds to secure debt, mortgages, assignments, notices of assignments, transfers and assurances as Mortgagee shall, from time to time, reasonably require, for the better assuring, conveying, assigning, transferring, and confirming unto Mortgagee the Property and rights hereby mortgaged, deeded, granted, bargained, sold, conveyed, confirmed, pledged, assigned, warranted and transferred or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage or for filing, registering or recording this Mortgage, or for complying with all Legal Requirements. Mortgagor, on demand, will execute and deliver, and in the event it shall fail to so execute and deliver, hereby authorizes Mortgagee to execute in the name of Mortgagor or without the signature of Mortgagor to the extent Mortgagee may lawfully do so, one or more financing statements to evidence more effectively the security interest of Mortgagee in the Property and the Collateral. Financing statements to be filed with the Secretary of State of the State in which the Mortgagor is organized may describe as the collateral covered thereby "all assets of the debtor, whether now owned or hereafter acquired" or words to that effect, notwithstanding that such collateral description may be broader in scope than the collateral described herein. Mortgagee shall provide Mortgagor with copies of any notices and/or instruments of filings executed by Mortgagee in accordance with the immediately preceding sentence. Mortgagor grants to Mortgagee an irrevocable power of attorney coupled with an interest for the purpose of exercising and perfecting any and all rights and remedies available to Mortgagee at law and in equity, including, without limitation, such rights and remedies available to Mortgagee pursuant to this Section 5.02. Notwithstanding anything to the contrary in the immediately preceding sentence, Mortgagee shall not execute any documents as attorney in fact for Mortgagor unless (i) Mortgagor shall have failed or refused to execute the same within five (5) days after delivery of Mortgagee's request to Mortgagor or (ii) an Event of Default is continuing.

**Section 5.03 Changes in Tax, Debt, Credit and Documentary Stamp Laws.**

(a) If any law is enacted or adopted or amended after the date of this Mortgage 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 Mortgagee's interest in the Property, Mortgagor will pay the tax, with interest and penalties thereon, if any (it being understood that nothing hereunder shall require Mortgagor to pay any income or franchise tax imposed on Mortgagee by reason of Mortgagee's interest in the Property). If Mortgagee is advised by counsel chosen by it that the payment of tax by Mortgagor would be unlawful or taxable to Mortgagee or unenforceable or provide the basis for a defense of usury, then Mortgagee shall have the option, by written notice to Mortgagor, to declare the Debt due and payable no earlier than one hundred twenty (120) days following such notice.

(b) Mortgagor will not claim or demand or be entitled to any credit or credits on account of the Debt for any part of the Taxes or Other Charges assessed against the Property, or any part thereof, and no deduction shall otherwise be made or claimed from the assessed value of the Property, or any part thereof, for real estate tax purposes by reason of this Mortgage or the Debt. If such claim, credit or deduction shall be required by law, Mortgagee shall have the option, by written notice to Mortgagor, to declare the Debt due and payable no earlier than one hundred twenty (120) days following such notice.

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

**ARTICLE VI.**

**DUE ON SALE/ENCUMBRANCE**

**Section 6.01 Mortgagee Reliance.** Mortgagor acknowledges that Mortgagee has examined and relied on the experience of Mortgagor and its general partners, members, principals and (if Mortgagor 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 Mortgagor's ownership of the Property as a means of maintaining the value of the Property as security for the payment and performance of the Obligations, including the repayment of the Debt. Mortgagor acknowledges that Mortgagee has a valid interest in maintaining the value of the Property so as to ensure that, should Mortgagor default in the payment and/or performance of the Obligations, including the repayment of the Debt, Mortgagee can recover the Debt by a sale or foreclosure of the Property or other sale permitted by applicable law as to the Personal Property, Equipment or Fixtures.

**Section 6.02 No Transfer.** Mortgagor shall not permit or suffer any Transfer to occur except in accordance with the terms of the Loan Agreement.

**ARTICLE VII.**

**RIGHTS AND REMEDIES UPON DEFAULT**

**Section 7.01 Remedies.** Upon the occurrence and during the continuance of any Event of Default, Mortgagor agrees that Mortgagee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against Mortgagor 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 Mortgagee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of Mortgagee:

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

(iii) To the extent permitted by applicable law, should Mortgagee elect to sell any portion of the Property which is Real Property or which is Personal Property, Equipment or Fixtures that the Mortgagee has elected under applicable law to sell together with Real Property in accordance with the laws governing a sale of the Real Property, Mortgagee shall give such notice of the occurrence of an Event of Default, if any, and its election to sell such Property, each as may then be required by law. Thereafter, upon the expiration of such time and the giving of such notice of sale as may then be required by law, subject to the terms hereof and of the other Loan Documents, and, to the extent permitted by applicable law, without the necessity of any demand on Mortgagor, Mortgagee at the time and place specified in the notice of sale, shall sell such Real Property or part thereof at public auction to the highest bidder for cash in lawful money of the United States of America. Mortgagee may from time to time postpone any sale hereunder by public announcement thereof at the time and place noticed for any such sale; and

(iv) If the Property consists of several lots, parcels or items of property, Mortgagee shall, subject to applicable law, (A) designate the order in which such lots, parcels or items shall be offered for sale or sold, or (B) elect to sell such lots, parcels or items through a single sale, or through two or more successive sales, or in any other manner Mortgagee designates and Mortgagor waives any right to require otherwise. Any Person, including Mortgagor or Mortgagee, may purchase at any sale hereunder. Should Mortgagee desire that more than one sale or other disposition of the Property be conducted, Mortgagee shall, subject to applicable law, cause such sales or dispositions to be conducted simultaneously, or successively, on the same day, or at such different days or times and in such order as Mortgagee may designate, and no such sale shall terminate or otherwise affect the Lien of this Mortgage on any part of the Property not sold until all the Obligations have been satisfied in full. In the event Mortgagee elects to dispose of the Property through more than one sale, except as otherwise provided by applicable law, Mortgagor agrees to pay the costs and expenses of each such sale and of any judicial proceedings wherein such sale may be made;

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

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

(g) apply for the appointment of a receiver, trustee, liquidator or conservator of the Property, without notice and without regard for the adequacy of the security for the Debt and without regard for the solvency of Mortgagor, any guarantor or indemnitor with respect to the Loan or any Person otherwise liable for the payment of the Debt or any part thereof, and Mortgagor hereby irrevocably consents to such appointment;

(h) subject to applicable law and Section 15.02 hereof, the license granted to Mortgagor under Section 1.02 hereof shall automatically be revoked and Mortgagee may enter into or upon the Property, either personally or by its agents, nominees or attorneys and dispossess Mortgagor and its agents and servants therefrom, without liability for trespass, damages or otherwise and exclude Mortgagor and its agents or servants wholly therefrom, and take possession of all books, records and accounts relating thereto and Mortgagor agrees to surrender possession



of the Property and of such books, records and accounts to Mortgagee upon demand, and thereupon Mortgagee may do such acts and things as Mortgagee deems necessary or desirable to protect the security hereof, including without limitation, (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Property and conduct the business thereat on such terms and for such period of time as Mortgagee may deem proper; (ii) complete any construction on the Property in such manner and form as Mortgagee deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Property; (iv) exercise all rights and powers of Mortgagor with respect to the Property, whether in the name of Mortgagor or otherwise, including, without limitation, the right to make, cancel, enforce or modify Leases, obtain and evict tenants and demand, sue for or otherwise collect and receive all Rents and all sums due under all Lease Guaranties, including, without limitation, those past due and unpaid; (v) require Mortgagor to pay monthly in advance to Mortgagee, or any receiver appointed to collect the Rents, the fair and reasonable rental value for the use and occupation of such part of the Property as may be occupied by Mortgagor; (vi) require Mortgagor to vacate and surrender possession of the Property to Mortgagee or to such receiver and, in default thereof, Mortgagor may be evicted by summary proceedings or otherwise; and (vii) apply the receipts from the Property to the payment and performance of the Obligations (including, without limitation, the payment of the Debt), in such order, priority and proportions as Mortgagee shall deem appropriate in its sole discretion after deducting therefrom all expenses (including reasonable attorneys' fees and costs) incurred in connection with the aforesaid operations and all amounts necessary to pay the Taxes or Other Charges assessed against the Property, insurance premiums, other expenses and Capital Expenditures incurred in connection with the Property, as well as just and reasonable compensation for the services of Mortgagee, its counsel, agents and employees;

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

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

- (i) Taxes and Other Charges assessed against the Property;
- (ii) Insurance premiums;
- (iii) Other expenses and Capital Expenditures incurred in connection with the Property;

- (iv) Interest on the unpaid principal balance of the Note;
- (v) Amortization of the unpaid principal balance of the Note; and/or
- (vi) All other sums payable pursuant to the Note, the Loan Agreement, this Mortgage and the other Loan Documents, including, without limitation, the Release Price, if applicable, and advances made by Mortgagee pursuant to the terms of this Mortgage;
- (k) pursue such other remedies as may be available to Mortgagee at law or in equity; and/or
- (l) apply the undisbursed balance of any escrow or other deposits held by or on behalf of the Mortgagee with respect to the Property, to the payment of the Debt in such order, priority and proportions as Mortgagee shall deem to be appropriate in its sole discretion.

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

The exercise by Mortgagee of its rights granted under this Section 7.01 and the collection of the Rents and the sums due under the Lease Guaranties and the application thereof as provided in the Loan Documents shall not be considered a waiver of any Default or Event of Default under the Note, the Loan Agreement, this Mortgage or the other Loan Documents.

**Section 7.02 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 Mortgagee pursuant to the Note, this Mortgage or the other Loan Documents, may be applied by Mortgagee to the payment of the Obligations in such priority and proportions as Mortgagee in its discretion shall deem proper, to the extent consistent with law.

**Section 7.03 Right to Cure Defaults.** During the continuance of any Event of Default, Mortgagee may, but without any obligation to do so and without notice to or demand on Mortgagor and without releasing Mortgagor from any obligation hereunder, perform the obligations in Default in such manner and to such extent as Mortgagee may deem necessary to protect the security hereof. Mortgagee 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, to foreclose this Mortgage or collect the Debt, and to make any protective advances that Mortgagee may deem necessary to protect the security hereof, and the cost and expense of any of the foregoing (including reasonable attorneys' fees and disbursements to the extent permitted by law), with interest thereon at the Default Rate for the period after notice from Mortgagee that such cost or expense was incurred to the date of payment to Mortgagee, shall constitute a portion of the Debt, shall be secured by this Mortgage and the other Loan Documents and shall be due and payable to Mortgagee upon demand.

**Section 7.04 Other Rights, Etc.**

(a) The failure of Mortgagee to insist upon strict performance of any term hereof shall not be deemed to be a waiver of any term of this Mortgage. Mortgagor shall not be relieved of Mortgagor's obligations hereunder by reason of (i) the failure of Mortgagee to comply

with any request of Mortgagor or any guarantor or indemnitor with respect to the Loan to take any action to foreclose this Mortgage or otherwise enforce any of the provisions hereof or of the Note or the other Loan Documents, (ii) the release, regardless of consideration, of the whole or any part of the Property, or of any Person liable for the Obligations or any portion thereof, or (iii) any agreement or stipulation by Mortgagee extending the time of payment or otherwise modifying or supplementing the terms of the Note, this Mortgage or the other Loan Documents.

(b) It is agreed that the risk of loss or damage to the Property is on Mortgagor, and Mortgagee shall have no liability whatsoever for any 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 Mortgagee shall not be deemed an election of judicial relief, if any such possession is requested or obtained, with respect to any Property or collateral not in Mortgagee's possession.

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

**Section 7.05 Right to Release Any Portion of the Property.** Mortgagee may release any portion of the Property for such consideration as Mortgagee may require without, as to the remainder of the Property, in any way impairing or affecting the Lien or priority of this Mortgage, or improving the position of any subordinate lienholder with respect thereto, except to the extent that the Debt shall have been reduced by the actual monetary consideration, if any, received by Mortgagee for such release, and Mortgagee may accept by assignment, pledge or otherwise any other property in place thereof as Mortgagee may require without being accountable for so doing to any other lienholder. This Mortgage shall continue as a Lien and security interest in the remaining portion of the Property.

**Section 7.06 Right of Entry.** Subject to the rights of Tenants and upon reasonable prior notice to Mortgagor, Mortgagee and its agents shall have the right to enter and inspect the Property at all reasonable times.

## ARTICLE VIII.

### INDEMNIFICATION

**Section 8.01 Mortgage and/or Intangible Tax.** Mortgagor shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless Mortgagee and any Person claiming by or through Mortgagee (collectively with Mortgagee, the "*Indemnified Parties*") and

each, an “*Indemnified Party*”) from and against any and all losses, damages, costs, fees, expenses, claims, suits, judgments, awards, liabilities, obligations, debts, fines, penalties or charges imposed upon or incurred by or asserted against any Indemnified Party and directly or indirectly arising out of or in any way relating to any mortgage, recording, stamp, intangible or other similar taxes required to be paid by any Indemnified Party under applicable Legal Requirements in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of this Mortgage or any of the Loan Documents (but excluding any income, franchise or other similar taxes).

**Section 8.02 No Liability to Mortgagee.** This Mortgage shall not be construed to bind Mortgagee to the performance of any of the covenants, conditions or provisions contained in any Lease or Lease Guaranty or otherwise impose any obligation upon Mortgagee with respect to the Leases. Mortgagee shall not be liable for any loss sustained by Mortgagor resulting from Mortgagee’s failure to let the Property after an Event of Default or from any other act or omission of Mortgagee in managing the Property after an Event of Default unless such loss is caused by the willful misconduct, bad faith or gross negligence of Mortgagee. Mortgagee shall not be obligated to perform or discharge any obligation, duty or liability under the Leases or any Lease Guaranties or under or by reason of this Mortgage and Mortgagor shall indemnify Mortgagee for, and hold Mortgagee harmless from and against, (a) any and all liability, loss or damage which may or might be incurred under the Leases, any Lease Guaranties or under or by reason of this Mortgage, and (b) any and all claims and demands whatsoever, including the defense of any such claims or demands which may be asserted against Mortgagee by reason of any alleged obligations and undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases or any Lease Guaranties, unless caused by the willful misconduct or bad faith of Mortgagee. Should Mortgagee incur any such liability, the amount thereof, including costs, expenses and reasonable attorneys’ fees and costs, shall be secured by this Mortgage and by the other Loan Documents and Mortgagor shall reimburse Mortgagee therefor within seven (7) Business Days after demand therefor and upon the failure of Mortgagor so to do Mortgagee may, at its option, declare the Obligations to be immediately due and payable. This Mortgage shall not operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor for the carrying out of any of the terms and conditions of the Leases or any Lease Guaranties; nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the tenants or any other parties, or for any dangerous or defective condition of the Property, including, without limitation, the presence of any Hazardous Substances (as defined in the Environmental Indemnity), or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

**Section 8.03 Duty to Defend; Attorneys’ Fees and Other Fees and Expenses.** In connection with any indemnification obligations of Mortgagor hereunder, upon written request by any Indemnified Party, Mortgagor shall defend such Indemnified Party (if requested by any Indemnified Party, in the name of the Indemnified Party) by attorneys and other professionals reasonably approved by the Indemnified Parties. Notwithstanding the foregoing, if the defendants in any such claim or proceeding include both Mortgagor and any Indemnified Party and Mortgagor and such Indemnified Party shall have reasonably concluded that there are any legal defenses available to it and/or other Indemnified Parties that are different from or in addition to those available to Mortgagor, such Indemnified Party shall have the right to select separate counsel to

assert such legal defenses and to otherwise participate in the defense of such action on behalf of such Indemnified Party. Upon demand, Mortgagor shall pay or, in the sole and absolute discretion of any Indemnified Party, reimburse, such Indemnified Party for the payment of the reasonable fees and disbursements of attorneys, engineers, environmental consultants, laboratories and other professionals in connection therewith.

## ARTICLE IX.

### WAIVERS

**Section 9.01 Waiver of Counterclaim.** To the extent permitted by applicable law, Mortgagor hereby waives the right to assert a counterclaim, other than a mandatory or compulsory counterclaim, in any action or proceeding brought against it by Mortgagee arising out of or in any way connected with this Mortgage, the Loan Agreement, the Note, any of the other Loan Documents or the Obligations.

**Section 9.02 Marshaling and Other Matters.** To the extent permitted by applicable law, Mortgagor hereby waives the benefit of all appraisal, valuation, stay, extension, reinstatement and redemption laws now or hereafter in force and all rights of marshaling in the event of any sale hereunder of the Property or any part thereof or any interest therein. Further, to the extent permitted by applicable law, Mortgagor hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage on behalf of Mortgagor, and on behalf of each and every Person acquiring any interest in or title to the Property subsequent to the date of this Mortgage.

**Section 9.03 Waiver of Notice.** To the extent permitted by applicable law, Mortgagor shall not be entitled to any notices of any nature whatsoever from Mortgagee, except with respect to matters for which this Mortgage or the Loan Documents specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor, and except with respect to matters for which Mortgagee is required by applicable law to give notice, and Mortgagor hereby expressly waives the right to receive any notice from Mortgagee with respect to any matter for which this Mortgage or any of the other Loan Documents does not specifically and expressly provide for the giving of notice by Mortgagee to Mortgagor.

**Section 9.04 Waiver of Statute of Limitations.** To the extent permitted by applicable law, Mortgagor hereby expressly waives and releases its right to plead any statute of limitations as a defense to the payment and performance of the Obligations (including, without limitation, the payment of the Debt).

**Section 9.05 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, MORTGAGOR HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND FOREVER WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST, WITH REGARD TO THE NOTE, THIS MORTGAGE OR THE OTHER LOAN DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND**

**VOLUNTARILY BY MORTGAGOR AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE. MORTGAGEE IS HEREBY AUTHORIZED TO FILE A COPY OF THIS PARAGRAPH IN ANY PROCEEDING AS CONCLUSIVE EVIDENCE OF THIS WAIVER BY MORTGAGOR.**

**Section 9.06 Survival.** Except as otherwise set forth in the other Loan Documents, the indemnifications made pursuant to Article VIII herein and the representations and warranties, covenants, and other obligations arising under the Loan Documents, shall continue indefinitely in full force and effect and shall survive and shall in no way be impaired by (a) any satisfaction, release or other termination of this Mortgage or any other Loan Document, (b) any assignment or other transfer of all or any portion of this Mortgage or any other Loan Document or Mortgagee's interest in the Property (but, in such case, such indemnifications shall benefit both the Indemnified Parties and any such assignee or transferee), (c) any exercise of Mortgagee's rights and remedies pursuant hereto, including, but not limited to, foreclosure or acceptance of a deed in lieu of foreclosure, any exercise of any rights and remedies pursuant to the Loan Agreement, the Note or any of the other Loan Documents, any transfer of all or any portion of the Property (whether by Mortgagor or by Mortgagee following foreclosure or acceptance of a deed in lieu of foreclosure or at any other time), (d) any amendment to this Mortgage, the Loan Agreement, the Note or any other Loan Document, and/or (e) any act or omission that might otherwise be construed as a release or discharge of Mortgagor from the Obligations or any portion thereof. Notwithstanding the foregoing or anything to the contrary set forth herein, in no event shall Mortgagor be obligated to defend or indemnify any Indemnified Party for any damages, losses, claims and liabilities directly resulting from the gross negligence, bad faith or willful misconduct of such Indemnified Party.

## **ARTICLE X.**

### **INTENTIONALLY OMITTED**

## **ARTICLE XI.**

### **NOTICES**

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

## **ARTICLE XII.**

### **APPLICABLE LAW**

**Section 12.01 Governing Law; Jurisdiction; Service of Process.** WITH RESPECT TO MATTERS RELATING TO THE CREATION, PERFECTION AND ENFORCEMENT OF LIENS AND SECURITY INTERESTS CREATED UNDER THIS MORTGAGE, THIS MORTGAGE SHALL BE GOVERNED BY, AND BE CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE IN WHICH THE PROPERTY IS LOCATED, IT BEING UNDERSTOOD THAT, EXCEPT AS EXPRESSLY SET FORTH ABOVE IN THIS PARAGRAPH AND TO THE FULLEST EXTENT

**PERMITTED BY THE LAW OF SUCH STATE, THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND PERFORMED IN SUCH STATE (PURSUANT TO SECTION 5-1401 OF THE NEW YORK GENERAL OBLIGATIONS LAW) SHALL GOVERN ALL MATTERS RELATING TO THIS MORTGAGE AND THE OTHER LOAN DOCUMENTS AND ALL OF THE INDEBTEDNESS OR OBLIGATIONS ARISING HEREUNDER OR THEREUNDER. ALL PROVISIONS OF THE LOAN AGREEMENT INCORPORATED HEREIN BY REFERENCE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, AS SET FORTH IN THE GOVERNING LAW PROVISION OF THE LOAN AGREEMENT.**

**Section 12.02 Usury Laws.** Notwithstanding anything to the contrary, (a) all agreements and communications between Mortgagor and Mortgagee are hereby and shall automatically be limited so that, after taking into account all amounts deemed to constitute interest, the interest contracted for, charged or received by Mortgagee shall never exceed the Maximum Legal Rate, (b) in calculating whether any interest exceeds the Maximum Legal Rate, all such interest shall be amortized, prorated, allocated and spread over the full amount and term of all principal Indebtedness of Mortgagor to Mortgagee, and (c) if through any contingency or event, Mortgagee receives or is deemed to receive interest in excess of the Maximum Legal Rate, any such excess shall be deemed to have been applied toward payment of the principal of any and all then outstanding Indebtedness of Mortgagor to Mortgagee, or if there is no such indebtedness, shall immediately be returned to Mortgagor.

**Section 12.03 Provisions Subject to Applicable Law.** All rights, powers and remedies provided in this Mortgage may be exercised only to the extent that the exercise thereof does not violate any applicable provisions of law and are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any term of this Mortgage or any application thereof shall be invalid or unenforceable, the remainder of this Mortgage and any other application of the term shall not be affected thereby.

## **ARTICLE XIII.**

### **DEFINITIONS**

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage may be used interchangeably in the singular or plural form and the word "Mortgagor" shall mean "each Mortgagor and any subsequent owner or owners of the Property or any part thereof or any interest therein," the word "Mortgagee" shall mean "Mortgagee and any subsequent holder of the Note," the word "Note" shall mean "the Note and any other evidence of Indebtedness secured by this Mortgage," the word "Property" shall include any portion of the Property and any interest therein, and the phrases "attorneys' fees", "legal fees" and "counsel fees" shall include any and all 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 Mortgagee in protecting its interest in the Property, the Leases, the Rents, the sums due under the Lease Guaranties, and/or in enforcing its rights hereunder.

Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms.

#### ARTICLE XIV.

##### MISCELLANEOUS PROVISIONS

**Section 14.01 No Oral Change.** This Mortgage, and any provisions hereof, may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Mortgagor or Mortgagee, but only by an agreement in writing signed by the party(ies) against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

**Section 14.02 Successors and Assigns.** This Mortgage shall be binding upon, and shall inure to the benefit of, Mortgagor and Mortgagee and their respective successors and permitted assigns, as set forth in the Loan Agreement.

**Section 14.03 Inapplicable Provisions.** If any provision of this Mortgage is held to be illegal, invalid or unenforceable under present or future laws effective during the term of this Mortgage, such provision shall be fully severable and this Mortgage shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Mortgage, and the remaining provisions of this Mortgage shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Mortgage, unless such continued effectiveness of this Mortgage, as modified, would be contrary to the basic understandings and intentions of the parties as expressed herein.

**Section 14.04 Headings, Etc.** The headings and captions of the various Sections of this Mortgage are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

**Section 14.05 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, Mortgagee 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 Mortgagee and are merged with the Lien and security interest created herein as cumulative security for the payment, performance and discharge of the Obligations (including, but not limited to, the payment of the Debt).

**Section 14.06 Entire Agreement.** The Note, the Loan Agreement, this Mortgage and the other Loan Documents constitute the entire understanding and agreement between Mortgagor and Mortgagee with respect to the transactions arising in connection with the Obligations and supersede all prior written or oral understandings and agreements between Mortgagor and Mortgagee with respect thereto. Mortgagor hereby acknowledges that, except as incorporated in writing in the Note, the Loan Agreement, this Mortgage and the other Loan Documents, there are not, and were not, and no Persons are or were authorized by Mortgagee to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect



to the transaction which is the subject of the Note, the Loan Agreement, this Mortgage and the other Loan Documents.

**Section 14.07 Limitation on Mortgagee's Responsibility.** No provision of this Mortgage shall operate to place any obligation or liability for the control, care, management or repair of the Property upon Mortgagee, nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Property by the Tenants or any other Person, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any Tenant, licensee, employee or stranger. Nothing herein contained shall be construed as constituting Mortgagee a "mortgagee in possession."

**Section 14.08 Recitals.** The recitals hereof are a part hereof, form a basis for this Mortgage and shall be considered prima facie evidence of the facts and documents referred to therein.

**Section 14.09 Time of Essence.** Time is of the essence with respect to this Mortgage and each and every provision hereof.

## ARTICLE XV.

### STATE-SPECIFIC PROVISIONS

**Section 15.01 Principles of Construction.** Without limiting Section 12.01, to the extent that the laws of the State of Illinois govern the interpretation or enforcement of this Mortgage, (a) the provisions of this Article XV shall apply, and (b) in the event of any inconsistencies between the terms and provisions of this Article XV and the other terms and provisions of this Mortgage, the terms and provisions of this Article XV shall control and be binding.

**Section 15.02 Use of Proceeds.** Mortgagor hereby covenants, represents and agrees that all of the proceeds of the Loan secured by this Mortgage will be used solely for business purposes and in furtherance of the regular business affairs of Mortgagor, and the entire liabilities and obligations evidenced by the Loan Documents and secured by this Mortgage: (a) constitute a business loan which comes within the purview of 815 ILCS 205/4 as amended; (b) constitute "a loan secured by a mortgage on real estate," within the purview and operation of 815 ILCS 205/4(1)(l); and (c) is an exempt transaction under the Truth-in-Lending Act, 15 U.S.C., §1601 et seq.

**Section 15.03 Power of Sale.** Each of the remedies set forth herein, including without limitation the remedies involving a power of sale on the part of the Mortgagee and the right of Mortgagee to exercise self-help in connection with the enforcement of the terms of this Mortgage, shall be exercisable if, and to the extent, permitted by the Laws of the State in force at the time of the exercise of such remedies without regard to the enforceability of such remedies at the time of the execution and delivery of this Mortgage.

**Section 15.04 Agricultural Real Estate.** Mortgagor acknowledges that the Property does not constitute agricultural real estate as defined in Section 15-1201 of the Foreclosure Act or residential real estate as defined in Section 15-1219 of the Foreclosure Act.

**Section 15.05 Maximum Principal Indebtedness.** Notwithstanding any provision contained herein to the contrary, the liabilities and obligations secured by this Mortgage shall not exceed \$2,982,000.00.

**Section 15.06 [Reserved].**

**Section 15.07 Illinois Mortgage Foreclosure Law.**

(a) In the event any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law (735 ILCS Sections 5/15-1101 et seq., Illinois Compiled Statutes) (the “*Foreclosure Act*”), the provisions of the Foreclosure Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Foreclosure Act.

(b) If any provision of this Mortgage shall grant to Mortgagee any rights or remedies upon default of Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Foreclosure Act in the absence of said provision, Mortgagee shall be vested with the rights granted in the Foreclosure Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by the Mortgagee to the extent reimbursable under Sections 15-1510 and 15-1512 of the Foreclosure Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

(d) In addition to any provision of this Mortgage authorizing Mortgagee to take or be placed in possession of the Property, or for the appointment of a receiver, Mortgagee shall have the right, in accordance with Sections 15-1701 and 15-1702 of the Foreclosure Act, to be placed in the possession of the Property or at its request to have a receiver appointed, and such receiver, or Mortgagee, if and when placed in possession, shall have, in addition to any other powers provided in this Mortgage, all rights, powers, immunities, and duties and provisions for in Sections 15-1701, 15-1703 and 15-1704 of the Foreclosure Act.

**Section 15.08 Collateral Protection Act.** Pursuant to the terms of the Collateral Protection Act, 815 ILCS 180/1 et seq., Mortgagor is hereby notified that unless Mortgagor provides Mortgagee with evidence of the insurance coverage required by this Mortgage, Mortgagee may purchase insurance at Mortgagor’s expense to protect Mortgagee’s interests in the Property, which insurance may, but need not, protect the interests of Mortgagor. The coverage purchased by Mortgagee may not pay any claim made by Mortgagor or any claim made against Mortgagor in connection with the Property. Mortgagor may later cancel any insurance purchased by Mortgagee, but only after providing Mortgagee with evidence that Mortgagor has obtained the insurance as required hereunder. If Mortgagee purchases insurance for the Property, the Mortgagor will be responsible for the costs of such insurance, including interest and any Other

Charges imposed in connection with the placement of the insurance, until the effective date of the cancellation or expiration of the insurance. The costs of the insurance may be added to the Obligations secured hereby. The costs of such insurance may be greater than the cost of insurance Mortgagor may be able to obtain for itself.

**Section 15.09 Protective Advances.** All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings authorized by this Mortgage or by the Foreclosure Act (collectively, "*Protective Advances*"), shall have the benefit of all applicable provisions of the Foreclosure Act. All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after an Event of Default under the terms of the Note. 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) of Section 5/15-1302 of the Foreclosure Act. All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Foreclosure Act, apply to and be included in:

(a) determination of the amount of indebtedness secured by this Mortgage at any time;

(b) the indebtedness found due and owing to Mortgagee 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;

(c) if right of redemption has not been waived by the Mortgagor in this Mortgage, computation of amount required to redeem, pursuant to Subsections (d)(2) and (e) of Section 5/15-1603 of the Foreclosure Act;

(d) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the Foreclosure Act;

(e) application of income in the hands of any receiver or Mortgagee in possession; and

(f) computation of any deficiency judgment pursuant to Subsections (b)(2) and (e) of Sections 5/15-1508 and Section 5/15-1511 of the Foreclosure Act.

**Section 15.10 Waiver of Rights of Redemption and Reinstatement.** Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so called "Moratorium Laws," now existing or hereafter enacted, in order to prevent or hinder the enforcement of any rights or remedies of Mortgagee under this Mortgage, but hereby waives the benefit of such laws and the benefit of any homestead or other exemptions which it may now or hereafter from time to time have with respect to the Property or the Obligations. Mortgagor for itself and all creditors, mortgagees, trustees, lienholders and other persons or entities who may claim through or under it waives any and all right to have the property

and estates comprising the Property, or any part thereof, marshaled upon any foreclosure or other disposition (whether or not the entire Property be sold as a unit, and whether or not any parcels thereof be sold as a unit or separately) of any kind or nature of the Property, or any part thereof, or interest therein, and agrees that any court having jurisdiction to foreclose or otherwise enforce the liens granted and security interests created by this Mortgage may order the Property sold as an entirety. On behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Property described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the maximum extent permitted by applicable law, Mortgagor hereby waives any and all rights (x) of redemption from any foreclosure, or other disposition of any kind or nature of the Property, or any part thereof, or interest therein, under or pursuant to rights herein granted to Mortgagee, and (y) to reinstatement of the indebtedness hereby secured, including, without limitation, any right to reverse any acceleration of such indebtedness pursuant to 735 ILCS 5/15-1602. Mortgagor further waives and releases (a) all errors, defects, and imperfections in any proceedings instituted by Mortgagee under the Note, this Mortgage, or any of the Loan Documents, (b) all benefits that might accrue to the Mortgagor by virtue of any present or future laws exempting the Property, or any part of the proceeds arising from any sale thereof, from attachment, levy, or sale under civil process, or extension, exemption from civil process, or extension of time for payment, and (c) all notices not specifically required by this Mortgage of default, or of Mortgagee's exercise, or election to exercise, any option under this Mortgage. All waivers by Mortgagor in this Mortgage have been made voluntarily, intelligently and knowingly by Mortgagor after Mortgagor has been afforded an opportunity to be informed by counsel of Mortgagor's choice as to possible alternative rights. Mortgagor's execution of this Mortgage shall be conclusive evidence of the making of such waivers and that such waivers have been voluntarily, intelligently and knowingly made.

**[NO FURTHER TEXT ON THIS PAGE]**

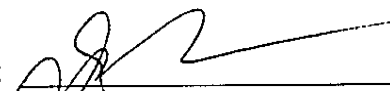
IN WITNESS WHEREOF, THIS MORTGAGE has been executed by Mortgagor as of the day and year first above written.

**MORTGAGOR:**

**EB SOUTH CHICAGO 3 LLC,**  
a Delaware limited liability company

By: SSDF3 Holdco 1 LLC  
Its: Managing Member

By: Great Lakes Development Corp LLC  
Its: Managing Member

By:   
Name: Jerome H. Cohen  
Title: Managing Member

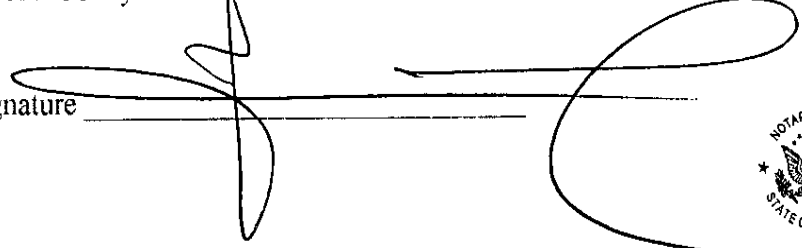
**ACKNOWLEDGMENT**

State of FL  
County of COLLIER

On MAY 25, 2017 before me, IONUT SIMON, a Notary Public in and for the County and State aforesaid, personally appeared Jerome H. Cohen, the Managing Member of Great Lakes Development Corp LLC, the Managing Member of SSDF3 Holdco 1 LLC, the Managing Member of EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of FL that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature 



IONUT SIMON  
MY COMMISSION # FF 172192  
EXPIRES: February 27, 2019  
Bonded Thru Budget Notary Services

**SCHEDULE 1**

## Property List

Address	City	State	County	Zip
2129 W 71ST ST	CHICAGO	IL	COOK	60636
5437 S LAFLIN ST. UNIT 1, UNIT 2, UNIT 3, AND UNIT 4	CHICAGO	IL	COOK	60609
6759 S INDIANA AVE	CHICAGO	IL	COOK	60637
7300-04 ST LAWRENCE AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, AND UNIT 8	CHICAGO	IL	COOK	60619
7760 S COLES AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, UNIT 8, UNIT 9, UNIT 10, UNIT 11, UNIT 12, AND UNIT 13	CHICAGO	IL	COOK	60649
8809 S WOOD ST	CHICAGO	IL	COOK	60620
9610 S WOODLAWN AVE	CHICAGO	IL	COOK	60628

**EXHIBIT A**

## Legal Descriptions

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636  
 PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000  
 CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609  
 PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000  
 CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637  
 PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000  
 CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619  
 PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000  
 CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8

FEET TAKEN FOR ALLEY) ALL IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMINGS SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649  
PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000  
CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620  
PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000  
CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628  
PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000  
CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:  
THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

Exhibit A

Mortgage (*Cook County, Illinois*)



# **EXHIBIT B**



Doc# 1736315121 Fee \$50.00  
RHSP FEE:\$9.00 RPRF FEE: \$1.00  
KAREN A. YARBROUGH  
COOK COUNTY RECORDER OF DEEDS  
DATE: 12/29/2017 03:07 PM PG: 1 OF 7

PREPARED BY:  
Karen Wade, Esq.  
Alston & Bird LLP  
2828 N Harwood Street, Suite 1800  
Dallas, TX 75201

UPON RECORDATION RETURN TO:  
Attn: Kelly Grady  
OS National LLC  
2170 Satellite Blvd, Ste 200  
Duluth, GA 30097

**ASSIGNMENT OF SECURITY INSTRUMENT**

by

**COREVEST AMERICAN FINANCE DEPOSITOR LLC,**  
a Delaware limited liability company,

to

**WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE  
BENEFIT OF THE HOLDERS OF COREVEST AMERICAN FINANCE 2017-1 TRUST  
MORTGAGE PASS-THROUGH CERTIFICATES**

**Dated: As of October 31st, 2017**

State: Illinois  
County: Cook

S Y  
P 7  
S 6  
M N  
SC Y  
E Y  
INT Y, W

## ASSIGNMENT OF SECURITY INSTRUMENT

THIS ASSIGNMENT OF SECURITY INSTRUMENT (this "Assignment"), made and entered into as of the 31<sup>st</sup> day of October, 2017, is made by **COREVEST AMERICAN FINANCE DEPOSITOR LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignor"), in favor of **WILMINGTON TRUST, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE BENEFIT OF THE HOLDERS OF COREVEST AMERICAN FINANCE 2017-1 TRUST MORTGAGE PASS-THROUGH CERTIFICATES**, having an address at 1100 North Market Street, Wilmington, DE 19890 ("Assignee").

### W I T N E S S E T H

WHEREAS, Assignor is the present legal and equitable owner and holder of that certain Promissory Note dated as of May 26, 2017 executed by **EB South Chicago 3 LLC**, a Delaware limited liability company ("Borrower"), and made payable to the order of Colony American Finance Lender, LLC, a Delaware limited liability company ("Colony"), predecessor-in-interest to Assignor, in the stated principal amount of One Million Four Hundred Ninety One Thousand Dollars and No Cents (\$1,491,000.00) (the "Note") in connection with certain real property and improvements located thereon situated in the County of Cook, State of Illinois,, and more particularly described on Exhibit A annexed hereto and made a part hereof (the "Premises"); and

WHEREAS, the Note is secured, inter alia, by the Security Instrument (as hereinafter defined); and

WHEREAS, the parties hereto desire that Assignor assign to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Security Instrument.

NOW, THEREFORE, in consideration of the premises above set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Assignor and Assignee hereby covenant and agree as follows:

1. Assignment. Assignor does hereby transfer, assign, grant and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the following described instrument, and does hereby grant and delegate to Assignee, its successors and assigns, any and all of the duties and obligations of Assignor thereunder from and after the date hereof:

That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of May 26, 2017, executed by Borrower for the benefit of Colony American Finance Lender, LLC, as lender, and recorded on June 28, 2017 in the Real Property Records of Cook County, Illinois, as Document No. 1717922020, Book N/A, Page N/A (as the same may heretofore have been assigned, the "Security Instrument"), in respect of the Premises, together with all rights accrued or to accrue under said Security Instrument.

2. Representations and Warranties of Assignor. This Assignment is an absolute assignment. This Assignment is without recourse, representation or warranty, express or implied, upon Assignor, except Assignor hereby warrants and represents to Assignee that:

(a) Prior to the execution hereof, Assignor has not sold, transferred, assigned, conveyed, pledged or endorsed any right, title or interest in the Security Instrument to any person or entity other than Assignee; and

(b) Assignor has full right and power to sell and assign the same to Assignee subject to no interest or participation of, or agreement with, any party other than Assignee.

3. Governing Law. With respect to matters relating to the creation, perfection and procedures relating to the enforcement of this Assignment, this Assignment shall be governed by, and be construed in accordance with, the laws of the State of Illinois, it being understood that, except as expressly set forth above in this paragraph and to the fullest extent permitted by the law of the State of Illinois, the law of the State of New York applicable to contracts made and performed in such State (pursuant to Section 5-1401 of the New York General Obligations Law) shall govern all matters relating to this Assignment and all of the indebtedness or obligations arising hereunder.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Headings. The headings of the paragraphs of this Assignment have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Assignment or be used in any manner in the interpretation of this Assignment.

6. Interpretation. Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

7. Partial Invalidity. Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

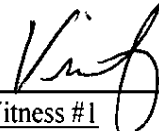
**[SIGNATURE PAGE FOLLOWS]**

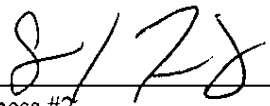
IN WITNESS WHEREOF, Assignor has executed this Assignment of Security Instrument as of the day and year first above written.

ASSIGNOR:

**COREVEST AMERICAN FINANCE  
DEPOSITOR LLC**, A Delaware limited liability company

By:   
Elizabeth O'Brien  
Chief Executive Officer

  
\_\_\_\_\_  
Witness #1  
Print Name: Victor Zhang

  
\_\_\_\_\_  
Witness #2  
Print Name: Samuel Harrity

Signature Page

Assignment of Security Instrument (DEPOSITOR TO TRUST)

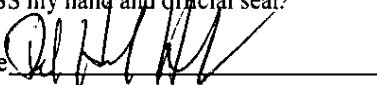
ACKNOWLEDGMENT

STATE OF NEW YORK )

COUNTY OF NEW YORK ) ss.:

On November 6 2017, before me, Debra Helen Heitzler, a Notary Public personally appeared Elizabeth OBrien, as personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the City of New York, County of New York, State of New York.

WITNESS my hand and official seal.

Signature 

(Notary Seal)

DEBRA HELEN HEITZLER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HE6353855  
Qualified In New York County  
My Commission Expires 01-30-2021

Signature Page

Assignment of Security Instrument (DEPOSITOR TO TRUST)

**EXHIBIT A**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636  
PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000  
CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609  
PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000  
CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637  
PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000  
CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619  
PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000  
CLIENT CODE : 05530

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TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMINGS SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649  
PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000  
CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620  
PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000  
CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

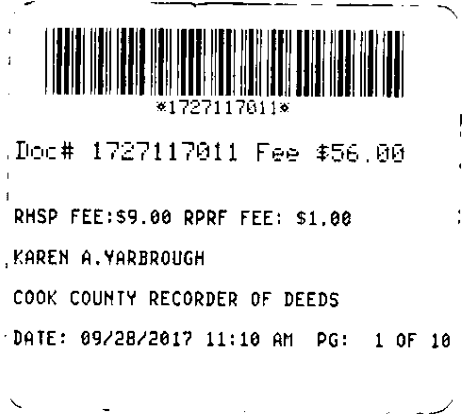
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ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628  
PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000  
CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:  
THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.



# **EXHIBIT C**



PREPARED BY:  
 Colony American Finance  
 c/o Michelle Aileen Fallis  
 1920 Main St., Suite 850  
 Irvine, CA 92614

UPON RECORDATION RETURN TO:  
 OS National, LLC  
 2170 Satellite Blvd., Suite 200  
 Duluth, GA 30097  
 (770) 497-9100

**ASSIGNMENT OF SECURITY INSTRUMENT**

by

**COLONY AMERICAN FINANCE LENDER, LLC,**  
 a Delaware limited liability company,

to

**CAF TERM BORROWER MS, LLC,**  
 a Delaware limited liability company

**Dated: As of May 26, 2017**

**State: Illinois**  
**County: Cook**

S ✓  
 P 10  
 S N  
 M N  
 SC ✓  
 E ✓  
 IN W

## ASSIGNMENT OF SECURITY INSTRUMENT

THIS ASSIGNMENT OF SECURITY INSTRUMENT (this "Assignment"), made and entered into as of May 26, 2017, is made by **COLONY AMERICAN FINANCE LENDER, LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignor"), in favor of **CAF TERM BORROWER MS, LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignee").

### W I T N E S S E T H

WHEREAS, Assignor is the present legal and equitable owner and holder of that certain Promissory Note, dated as of May 26, 2017, executed by EB SOUTH CHICAGO 3 LLC, a Delaware limited liability company ("Borrower"), and made payable to the order of Assignor in the stated principal amount of ONE MILLION FOUR HUNDRED NINETY-ONE THOUSAND AND NO/100 DOLLARS (\$1,491,000.00) (the "Note") in connection with certain real property and improvements located thereon and described on Schedule I hereto and situated in the County of Cook, State of Illinois, and more particularly described on Exhibit A annexed hereto and made a part hereof (the "Premises"); and

WHEREAS, the Note is secured, inter alia, by the Security Instrument (as hereinafter defined); and

WHEREAS, the parties hereto desire that Assignor assign to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Security Instrument.

NOW, THEREFORE, in consideration of the premises above set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Assignor and Assignee hereby covenant and agree as follows:

1. Assignment. Assignor does hereby transfer, assign, grant and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the following described instrument, and does hereby grant and delegate to Assignee, its successors and assigns, any and all of the duties and obligations of Assignor thereunder from and after the date hereof:

That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of May 26, 2017, executed by Borrower for the benefit of Assignor, as lender, and recorded on June 28, 2017 in the Real Property Records of Cook County, Illinois, as Doc # 1717922020 (the "Security Instrument"), in respect of the Premises.

2. Assumption. From and after the date hereof, Assignee hereby accepts this Assignment and assumes and agrees to observe, perform and be bound by all of the terms, covenants, agreements, conditions and obligations of the Security Instrument required to be observed or performed by Assignor thereunder.

3. Governing Law. With respect to matters relating to the creation, perfection and procedures relating to the enforcement of this Assignment, this Assignment shall be governed by, and be construed in accordance with, the laws of the State of Illinois, it being understood that, except as expressly set forth above in this paragraph and to the fullest extent permitted by the law of the State of Illinois, the law of the State of New York applicable to contracts made and performed in such State (pursuant to Section 5-1401 of the New York General Obligations Law) shall govern all matters relating to this Assignment and all of the indebtedness or obligations arising hereunder.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Headings. The headings of the paragraphs of this Assignment have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Assignment or be used in any manner in the interpretation of this Assignment.

6. Interpretation. Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

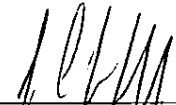
7. Partial Invalidity. Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

**[SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, Assignor has executed this Assignment of Security Instrument as of the day and year first above written.

ASSIGNOR:

COLONY AMERICAN FINANCE LENDER,  
LLC., a Delaware limited liability company

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

Name: J. Christopher Hoeffel

Title: Chief Financial Officer

Address:

1920 Main Street, Suite 850

Irvine, CA 92614

Attn: General Counsel

State of New York )

County of New York ) ss.:

On the 13 day of June in the year 2017, before me, the undersigned, personally appeared J. Christopher Hoeffel, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Debra Helen Heitzler  
Signature and Office of individual  
taking acknowledgment

DEBRA HELEN HEITZLER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HE6353855  
Qualified In New York County  
My Commission Expires 01-30-2021

**SCHEDULE I**

*(Attached)*

**COOK COUNTY  
RECORDER OF DEEDS**

**COOK COUNTY  
RECORDER OF DEEDS**

**SCHEDULE I**

<b>Address</b>	<b>City</b>	<b>State</b>	<b>County</b>	<b>Zip</b>
2129 W 71ST ST	CHICAGO	IL	COOK	60636
5437 S LAFLIN ST. UNIT 1, UNIT 2, UNIT 3, AND UNIT 4	CHICAGO	IL	COOK	60609
6759 S INDIANA AVE	CHICAGO	IL	COOK	60637
7300-04 ST LAWRENCE AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, AND UNIT 8	CHICAGO	IL	COOK	60619
7760 S COLES AVE. UNIT 1, UNIT 2, UNIT 3, UNIT 4, UNIT 5, UNIT 6, UNIT 7, UNIT 8, UNIT 9, UNIT 10, UNIT 11, UNIT 12, AND UNIT 13	CHICAGO	IL	COOK	60649
8809 S WOOD ST	CHICAGO	IL	COOK	60620
9610 S WOODLAWN AVE	CHICAGO	IL	COOK	60628



**EXHIBIT A**

(Premises Description)

COOK COUNTY  
RECORDER OF DEEDS

COOK COUNTY  
RECORDER OF DEEDS

COOK COUNTY  
RECORDER OF DEEDS

**EXHIBIT A**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636  
PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000  
CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609  
PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000  
CLIENT CODE : 05527

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\*\*\*

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637  
PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000  
CLIENT CODE : 05528

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\*\*\*

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619  
PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000  
CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8 FEET TAKEN FOR ALLEY) ALL IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27,

TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMINGS SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649  
PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000  
CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620  
PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000  
CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628  
PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000  
CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:  
THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

# **EXHIBIT D**



Doc# 1736315119 Fee \$50.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/29/2017 03:06 PM PG: 1 OF 7

PREPARED BY:  
Karen Wade, Esq.  
Alston & Bird LLP  
2828 N Harwood Street, Suite 1800  
Dallas, TX 75201

UPON RECORDATION RETURN TO:  
Attn: Kelly Grady  
OS National LLC  
2170 Satellite Blvd, Ste 200  
Duluth, GA 30097

**ASSIGNMENT OF SECURITY INSTRUMENT**

by

**CAF TERM BORROWER MS, LLC,**  
a Delaware limited liability company,

to

**CF COREVEST PURCHASER LLC**  
a Delaware limited liability company

**Dated: As of October 31st, 2017**

**State: Illinois**  
**County: Cook**

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## ASSIGNMENT OF SECURITY INSTRUMENT

THIS ASSIGNMENT OF SECURITY INSTRUMENT (this "Assignment"), made and entered into as of the 31<sup>st</sup> day of October, 2017, is made by **CAF TERM BORROWER MS, LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignor"), in favor of **CF COREVEST PURCHASER LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignee").

### WITNESSETH

WHEREAS, Assignor is the present legal and equitable owner and holder of that certain Promissory Note dated as of May 26, 2017 executed by **EB South Chicago 3 LLC**, a Delaware limited liability company ("Borrower"), and made payable to the order of Colony American Finance Lender, LLC, a Delaware limited liability company ("Colony"), predecessor-in-interest to Assignor, in the stated principal amount of One Million Four Hundred Ninety One Thousand Dollars and No Cents (\$1,491,000.00) (the "Note") in connection with certain real property and improvements located thereon situated in the County of Cook, State of Illinois, and more particularly described on Exhibit A annexed hereto and made a part hereof (the "Premises"); and

WHEREAS, the Note is secured, inter alia, by the Security Instrument (as hereinafter defined); and

WHEREAS, the parties hereto desire that Assignor assign to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Security Instrument.

NOW, THEREFORE, in consideration of the premises above set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Assignor and Assignee hereby covenant and agree as follows:

1. Assignment. Assignor does hereby transfer, assign, grant and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the following described instrument, and does hereby grant and delegate to Assignee, its successors and assigns, any and all of the duties and obligations of Assignor thereunder from and after the date hereof:

That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of May 26, 2017, executed by Borrower for the benefit of Colony American Finance Lender, LLC, as lender, and recorded on June 28, 2017 in the Real Property Records of Cook County, Illinois, as Document No. 1717922020, Book N/A, Page N/A (as the same may heretofore have been assigned, the "Security Instrument"), in respect of the Premises, together with all rights accrued or to accrue under said Security Instrument.

2. Representations and Warranties of Assignor. This Assignment is an absolute assignment. This Assignment is without recourse, representation or warranty, express or implied, upon Assignor, except Assignor hereby warrants and represents to Assignee that:

(a) Prior to the execution hereof, Assignor has not sold, transferred, assigned, conveyed, pledged or endorsed any right, title or interest in the Security Instrument to any person or entity other than Assignee; and

(b) Assignor has full right and power to sell and assign the same to Assignee subject to no interest or participation of, or agreement with, any party other than Assignee.

3. Governing Law. With respect to matters relating to the creation, perfection and procedures relating to the enforcement of this Assignment, this Assignment shall be governed by, and be construed in accordance with, the laws of the State of Illinois, it being understood that, except as expressly set forth above in this paragraph and to the fullest extent permitted by the law of the State of Illinois, the law of the State of New York applicable to contracts made and performed in such State (pursuant to Section 5-1401 of the New York General Obligations Law) shall govern all matters relating to this Assignment and all of the indebtedness or obligations arising hereunder.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Headings. The headings of the paragraphs of this Assignment have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Assignment or be used in any manner in the interpretation of this Assignment.

6. Interpretation. Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.


7. Partial Invalidity. Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

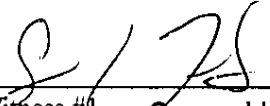
**[SIGNATURE PAGE FOLLOWS]**

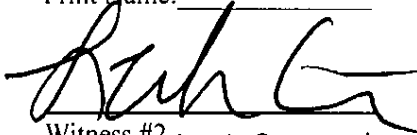
IN WITNESS WHEREOF, Assignor has executed this Assignment of Security Instrument as of the day and year first above written.

ASSIGNOR:

**CAF TERM BORROWER MS, LLC,**  
A Delaware limited liability company

By:   
\_\_\_\_\_  
J. Christopher Hoeffel  
Vice President

  
\_\_\_\_\_  
Witness #1 Samuel Harrity  
Print Name: \_\_\_\_\_

  
\_\_\_\_\_  
Witness #2 Leah Granovskaya  
Print Name: \_\_\_\_\_

Signature Page

Assignment of Security Instrument (BORROWER TO PURCHASER)



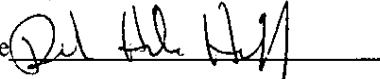
ACKNOWLEDGMENT

STATE OF NEW YORK )

COUNTY OF NEW YORK ) ss.:

On November 3 2017, before me, Debra Helen Heitzler, a Notary Public personally appeared J. Christopher Hoeffel, as personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument, **and that such individual made such appearance before the undersigned in the City of New York, County of New York, State of New York.**

WITNESS my hand and official seal.

Signature 

(Notary Seal)

DEBRA HELEN HEITZLER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HE6353855  
Qualified In New York County  
My Commission Expires 01-30-2021

Signature Page

Assignment of Security Instrument (BORROWER TO PURCHASER)

**EXHIBIT A**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636  
PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000  
CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609  
PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000  
CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637  
PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000  
CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619  
PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000  
CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8 FEET TAKEN FOR ALLEY) ALL IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27,

TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMINGS SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649  
PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000  
CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620  
PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000  
CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628  
PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000  
CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:  
THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

# **EXHIBIT E**



Doc# 1736315120 Fee \$50.00

RHSP FEE:\$9.00 RPRF FEE: \$1.00

KAREN A. YARBROUGH

COOK COUNTY RECORDER OF DEEDS

DATE: 12/29/2017 03:07 PM PG: 1 OF 7

**PREPARED BY:**

Karen Wade, Esq.  
Alston & Bird LLP  
2828 N Harwood Street, Suite 1800  
Dallas, TX 75201

**UPON RECORDATION RETURN TO:**

Attn: Kelly Grady  
OS National LLC  
2170 Satellite Blvd, Ste 200  
Duluth, GA 30097

**ASSIGNMENT OF SECURITY INSTRUMENT**

by

**CF COREVEST PURCHASER LLC,**  
a Delaware limited liability company,

to

**COREVEST AMERICAN FINANCE DEPOSITOR LLC,**  
a Delaware limited liability company

**Dated: As of October 31st, 2017**

State: Illinois  
County: Cook

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## ASSIGNMENT OF SECURITY INSTRUMENT

THIS ASSIGNMENT OF SECURITY INSTRUMENT (this "Assignment"), made and entered into as of the 31<sup>st</sup> day of October, 2017, is made by **CF COREVEST PURCHASER LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignor"), in favor of **COREVEST AMERICAN FINANCE DEPOSITOR LLC**, a Delaware limited liability company, having an address at 1920 Main Street, Suite 850, Irvine, CA 92614 ("Assignee").

### WITNESSETH

WHEREAS, Assignor is the present legal and equitable owner and holder of that certain Promissory Note dated as of May 26, 2017 executed by **EB South Chicago 3 LLC**, a Delaware limited liability company ("Borrower"), and made payable to the order of Colony American Finance Lender, LLC, a Delaware limited liability company ("Colony"), predecessor-in-interest to Assignor, in the stated principal amount of One Million Four Hundred Ninety One Thousand Dollars and No Cents (\$1,491,000.00) (the "Note") in connection with certain real property and improvements located thereon situated in the County of Cook, State of Illinois, and more particularly described on Exhibit A annexed hereto and made a part hereof (the "Premises"); and

WHEREAS, the Note is secured, inter alia, by the Security Instrument (as hereinafter defined); and

WHEREAS, the parties hereto desire that Assignor assign to Assignee, its successors and assigns, all of Assignor's right, title and interest in and to the Security Instrument.

NOW, THEREFORE, in consideration of the premises above set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and agreed, Assignor and Assignee hereby covenant and agree as follows:

1. Assignment. Assignor does hereby transfer, assign, grant and convey to Assignee, its successors and assigns, all of the right, title and interest of Assignor in and to the following described instrument, and does hereby grant and delegate to Assignee, its successors and assigns, any and all of the duties and obligations of Assignor thereunder from and after the date hereof:

That certain Mortgage, Assignment of Leases and Rents, Security Agreement and Fixture Filing dated as of May 26, 2017, executed by Borrower for the benefit of Colony American Finance Lender, LLC, as lender, and recorded on June 28, 2017 in the Real Property Records of Cook County, Illinois, as Document No. 1717922020, Book N/A, Page N/A (as the same may heretofore have been assigned, the "Security Instrument"), in respect of the Premises, together with all rights accrued or to accrue under said Security Instrument.

2. Representations and Warranties of Assignor. This Assignment is an absolute assignment. This Assignment is without recourse, representation or warranty, express or implied, upon Assignor, except Assignor hereby warrants and represents to Assignee that:

(a) Prior to the execution hereof, Assignor has not sold, transferred, assigned, conveyed, pledged or endorsed any right, title or interest in the Security Instrument to any person or entity other than Assignee; and

(b) Assignor has full right and power to sell and assign the same to Assignee subject to no interest or participation of, or agreement with, any party other than Assignee.

3. Governing Law. With respect to matters relating to the creation, perfection and procedures relating to the enforcement of this Assignment, this Assignment shall be governed by, and be construed in accordance with, the laws of the State of Illinois, it being understood that, except as expressly set forth above in this paragraph and to the fullest extent permitted by the law of the State of Illinois, the law of the State of New York applicable to contracts made and performed in such State (pursuant to Section 5-1401 of the New York General Obligations Law) shall govern all matters relating to this Assignment and all of the indebtedness or obligations arising hereunder.

4. Successors and Assigns. This Assignment shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

5. Headings. The headings of the paragraphs of this Assignment have been included only for convenience, and shall not be deemed in any manner to modify or limit any of the provisions of this Assignment or be used in any manner in the interpretation of this Assignment.

6. Interpretation. Whenever the context so requires in this Assignment, all words used in the singular shall be construed to have been used in the plural (and vice versa), each gender shall be construed to include any other genders, and the word "person" shall be construed to include a natural person, a corporation, a firm, a partnership, a joint venture, a trust, an estate or any other entity.

7. Partial Invalidity. Each provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Assignment or the application of such provision to any person or circumstance shall, to any extent, be invalid or unenforceable, then the remainder of this Assignment, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by such invalidity or unenforceability.

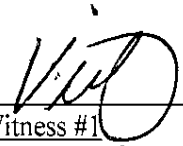
**[SIGNATURE PAGE FOLLOWS]**

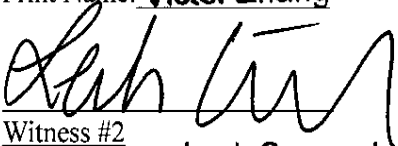
IN WITNESS WHEREOF, Assignor has executed this Assignment of Security Instrument as of the day and year first above written.

ASSIGNOR:

**CF COREVEST PURCHASER LLC,**  
A Delaware limited liability company

By:   
Elizabeth O'Brien  
Authorized Signatory

  
Witness #1  
Print Name: **Victor Zhang**

  
Witness #2  
Print Name: **Leah Granovskaya**

Signature Page

Assignment of Security Instrument (PURCHASER TO DEPOSITOR)



ACKNOWLEDGMENT

STATE OF NEW YORK )

COUNTY OF NEW YORK ) ss.:

On November 9 2017, before me, Debra Helen Heitzler, a Notary Public personally appeared Elizabeth O'Brien, as personally known to me (or proved to me the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument, **and that such individual made such appearance before the undersigned in the City of New York, County of New York, State of New York.**

WITNESS my hand and official seal

Signature

(Notary Seal)

DEBRA HELEN HEITZLER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01HE6353855  
Qualified in New York County  
My Commission Expires 01-30-2021

Signature Page

Assignment of Security Instrument (PURCHASER TO DEPOSITOR)

**EXHIBIT A**

ADDRESS : 2129 W 71ST ST, CHICAGO, COOK,IL 60636  
PARCEL IDENTIFICATION NUMBER : 20-30-104-004-0000  
CLIENT CODE : 05525

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 12 IN BLOCK 3 IN HERRONS SUBDIVISION OF 50 ACRES IN THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 5437 S LAFLIN ST, CHICAGO, COOK,IL 60609  
PARCEL IDENTIFICATION NUMBER : 20-08-318-014-0000 & 20-08-318-015-0000  
CLIENT CODE : 05527

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 30 AND THE NORTH HALF OF LOT 29 IN BLOCK 2 IN THE SUBDIVISION OF THE WEST HALF OF THE EAST HALF OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 6759 S INDIANA AVE, CHICAGO, COOK,IL 60637  
PARCEL IDENTIFICATION NUMBER : 20-22-303-023-0000  
CLIENT CODE : 05528

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: ALL THAT CERTAIN PARCEL OF LAND SITUATE IN THE COUNTY OF COOK AND STATE OF ILLINOIS BEING KNOWN AS LOT 27 IN MCKAY AND POAGUE'S ADDITION, BEING A SUBDIVISION OF BLOCK 10 IN THE SUBDIVISION OF L.C. PAINE FREER, RECEIVER OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 38 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7300-04 ST LAWRENCE AVE, UNIT 1 THROUGH UNIT 8, CHICAGO, COOK,IL 60619  
PARCEL IDENTIFICATION NUMBER : 20-27-219-018-0000  
CLIENT CODE : 05530

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: THE NORTH 65 FEET OF LOT 1 IN THE RESUBDIVISION OF LOT 1 (EXCEPT THE SOUTH 1 FOOT THEREOF) AND THE EAST 12 FEET AND 4 1/2 INCHES OF LOT 2 (EXCEPT THE SOUTH 1 FOOT AND THE EXCEPT THE WEST 8 FEET TAKEN FOR ALLEY) ALL IN BLOCK 1 IN FLEMING'S SUBDIVISION OF THE SOUTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 27,

TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ALSO LOT "A" IN SUBDIVISION OF LOTS 7 AND 8 IN BLOCK 1 IN FLEMINGS SUBDIVISION AFORESAID IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 7760 S COLES AVE, UNIT 1 THROUGH UNIT 13, CHICAGO, COOK,IL 60649  
PARCEL IDENTIFICATION NUMBER : 21-30-403-015-0000  
CLIENT CODE : 05531

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 2 IN THE SUBDIVISION OF LOTS 41 TO 44 IN DIVISION 1 OF WESTFALL'S SUBDIVISION OF 208 ACRES IN EAST 1/2 OF SOUTHWEST 1/4 AND SOUTH EAST 1/4 OF SECTION 30, TOWNSHIP 38 NORTH, RANGE 15, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 8809 S WOOD ST, CHICAGO, COOK,IL 60620  
PARCEL IDENTIFICATION NUMBER : 25-06-210-004-0000  
CLIENT CODE : 05533

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS: LOT 46 IN BLOCK 10 IN ENGLEWOOD HEIGHTS, BEING A RESUBDIVISION OF THE NORTH 1/2 OF THAT PART OF THE EAST 1/2 OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING EAST OF THE PITTSBURGH, CHICAGO, AND ST. LOUIS RAILROAD, IN COOK COUNTY, ILLINOIS.

\*\*\*

ADDRESS : 9610 S WOODLAWN AVE, CHICAGO, COOK,IL 60628  
PARCEL IDENTIFICATION NUMBER : 25-11-108-045-0000  
CLIENT CODE : 05534

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF COOK, STATE OF ILLINOIS, AND IS DESCRIBED AS FOLLOWS:  
THE NORTH 20 FEET OF LOT 28 AND THE SOUTH 25 FEET OF THE LOT 29 IN BLOCK 26 IN COTTAGE GROVE HEIGHTS ADDITION, BEING A SUBDIVISION OF PART OF THE NORTH HALF OF SECTION 11, TOWNSHIP 37 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

# **EXHIBIT G**

**Amended and Restated Unsecured Promissory Note**  
(Installment Payments)

Borrower: EquityBuild, Inc.

1083 N Collier Blvd. #132

Marco Island, FL 34145

("Borrower")

Lender: SD ROTH MissProperty LLC

C/O EquityBuild Finance, LLC (Loan Servicer)

5068 West Plano Pkwy. #300 (address)

Plano, TX 75093 (city, state, zip)

("Lender")

This Amended and Restated Unsecured Promissory Note (this "Note") amends, restates, replaces and supersedes in all respects that certain secured Promissory Note (the "Prior Note") dated October 9<sup>th</sup>, 2015 between Borrower and Lender that was secured by that certain piece of real property located at 7304 S St. Lawrence Ave., Chicago, IL 60619 (the "Property") pursuant to a real property mortgage filed in the real property records (the "Prior Mortgage"). Lender acknowledges and has consented (and by execution hereof, evidences such consent) to (i) the termination of the Prior Mortgage, (ii) the elimination of a security interest in favor of the Lender on the Property pursuant to the Prior Mortgage, and (iii) the amending, restating, replacing and superseding of the Prior Note pursuant to this Note in the amount set forth below as the Principal Amount in exchange for the payment by Borrower to Lender of an amount equal \$ 3,627.58 as a reduction

in the principal amount of the Prior Note upon the refinancing of the Property with a new senior secured lender who will have a first priority secured position in the Property. The parties acknowledge that the Property is not securing this Note, as it did the Prior Note. The Borrower was unable to pay the Prior Note as it came due and, in lieu of foreclosure procedures on the Property and the risk that the foreclosure process would yield less proceeds to Lender in respect of the outstanding balance on the Prior Note, Lender has consented to the refinancing of the Property with a new senior secured lender whereby the new senior secured lender acquires a security interest in the Property and, where such new senior secured lender will not allow any additional collateral security interest to be granted in the Property, the Lender retains an unsecured obligation from Borrower as evidenced by this Note, and the proceeds from such refinancing are used to reduce the outstanding balance owed on the Prior Note to the amount outstanding on this Note.

**I. Promise to Pay**

Borrower agrees to pay Lender the total amount of \$ 2,996.42 (the "Principal Amount"), together with interest payable on the unpaid principal at the rate of 10.00 % per annum.

Payment will be delivered to Lender at:

Address listed above: \_\_\_\_\_

Bank account on file: x

Other:  
\_\_\_\_\_

**II. Repayment**

The Principal Amount and any accrued but unpaid interest will be repaid in equal installments of \$ 138.27 made every Month. The

first payment will be due on 08/30/2017. All subsequent payments will be due on the first of the month and the final payment shall be due and payable on 07/30/2019 (the "Maturity Date"). All payments shall be first applied to interest and the balance to the Principal Amount. Borrower shall have the right to prepay the Principal Amount and all accrued and unpaid interest thereon at any time.

**III. Late Payment Fees**

If Borrower defaults in payment by more than 15 days after the time set forth herein, then Borrower shall pay an additional late fee in the amount of \$50 a month.

**IV. Additional Costs**

In case of default in the payment of any principal or interest of this Promissory Note, Borrower will pay to Lender such further amount as will be sufficient to cover the cost and expenses of collection, including, without limitation, reasonable attorney's fees, expenses, and disbursements. These costs will be added to the outstanding principal and will become immediately due.

**V. Transfer of the Promissory Note**

Borrower hereby waives any notice of the transfer of this Note by Lender or by any subsequent holder of this Note, agrees to remain bound by the terms of this Note subsequent to any transfer, and agrees that the terms of this Note may be fully enforced by any subsequent holder of this Note.

**VI. Amendment; Modification; Waiver**

No amendment, modification or waiver of any provision of this Promissory Note or consent to departure therefrom shall be effective unless by written

agreement signed by both Borrower and Lender.

**VII. Successors**

The terms and conditions of this Promissory Note shall inure to the benefit of and be binding jointly and severally upon the successors, assigns, heirs, survivors and personal representatives of Borrower and shall inure to the benefit of any holder, its legal representatives, successors and assigns.

**VIII. Breach of Promissory Note**

No breach of any provision of this Promissory Note shall be deemed waived unless it is waived in writing. No course of dealing and no delay on the part of Lender in exercising any right will operate as a waiver thereof or otherwise prejudice Lender's rights, powers, or remedies. No right, power, or remedy conferred by this Promissory Note upon Lender will be exclusive of any other rights, power, or remedy referred to in this Note, or now or hereafter available at law, in equity, by statute, or otherwise.

**IX. Governing Law**

The validity, construction and performance of this Promissory Note will be governed by the laws of Florida, excluding that body of law pertaining to conflicts of law. Borrower hereby waives presentment, notice of non-payment, notice of dishonor, protest, demand and diligence.

[Remainder of this page is intentionally blank. Signatures appear on the following page.]

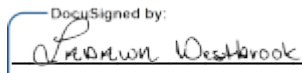


The parties hereby indicate by their signatures below that they have read and agree with the terms and conditions of this agreement in its entirety.

Borrower Signature:  \_\_\_\_\_  
DocuSigned by:  
B07F03FB96EF4CC

Name: Jerry Cohen, President

Date: 7/26/2017

Lender Signature:  \_\_\_\_\_  
DocuSigned by:  
7A5305ABE3AF4A5

Name: SD ROTH MissProperty LLC

Date: 7/31/2017