

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Gary J. Fox  
Katten Muchin Zavis  
525 West Monroe Street  
Suite 1600  
Chicago, Illinois 60661



**MORTGAGE, SECURITY AGREEMENT AND FINANCING STATEMENT**

THIS MORTGAGE is made as of October 3, 2000, between ROMANEK NORTHBROOK PLACE, L.L.C., an Illinois limited liability company (the "Mortgagor"), c/o 8410 Bryn Mawr Avenue, Chicago, Illinois 60631, and TRANSAMERICA COMMERCIAL REAL ESTATE FINANCE, LLC, (the "Mortgagee"), c/o 6133 North River Road, Suite 900, Rosemont, Illinois 60018.

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1. **MORTGAGE AND SECURED OBLIGATIONS.**

1.1. Mortgage. For purposes of securing payment and performance of the Secured Obligations defined and described in Section 1.2, Mortgagor hereby irrevocably and unconditionally grants, bargains, sells, conveys, mortgages, warrants, assigns and pledges to Mortgagee, with right of entry and possession, and with power of sale, all estate, right, title and interest which Mortgagor now has or may later acquire in and to the following property (all or any part of such property, or any interest in all or any part of it, as the context may require, the "Property"):

(a) the real property located in the County of Cook, State of Illinois and more particularly described in Exhibit A attached hereto, together with all existing and future easements and rights affording access to it (the "Land");

(b) all buildings, structures and improvements now located or later to be constructed on the Land (the "Improvements");

(c) all existing and future appurtenances, privileges, easements, franchises and tenements of the Land, including, without limitation, all minerals, oil, gas, other hydrocarbons and associated substances which may be in, under or produced from any part of the Land, all development rights and credits, air rights, water, water rights (whether riparian, appropriate or otherwise, and whether or not appurtenant) and water stock, and any land lying in the street, roads or avenues, open or proposed, in front of or adjoining the Land and Improvements;

(d) all existing and future leases, subleases, subtenancies, licenses, occupancy agreements and concessions ("leases", as defined in the Assignment of Leases and Rents described in Section 2 herein, executed and delivered to Lender contemporaneously herewith) relating to the use and enjoyment of all or any part of the

Land and Improvements, and any and all guaranties and other agreements relating to or made in connection with any of such leases;

(e) all goods, materials, supplies, chattels, furniture, fixtures, equipment and machinery now or later to be attached to, placed in or on, or used in connection with the use, enjoyment, occupancy or operation of all or any part of the Land and Improvements, whether stored on the Land or elsewhere, including, without limitation, all pumping plants, engines, pipes, ditches and flumes, and also all gas, electric, cooking, heating, cooling, air conditioning, lighting, refrigeration and plumbing fixtures and equipment, all of which shall be considered to the fullest extent of the law to be real property for purposes of this Mortgage;

(f) all building materials, equipment, work in process or other personal property of any kind, whether stored on the Land or elsewhere, which have been or later will be acquired for the purpose of being delivered to, incorporated into or installed in or about the Land or Improvements;

(g) all of Mortgagor's interest in and to the Loan funds, whether disbursed or not, the Escrow Accounts (as defined in Section 6.1 of the Loan Agreement) and any of Mortgagor's funds now or later to be held by or on behalf of Mortgagee;

(h) all rights to the payment of money, accounts, accounts receivable, reserves, deferred payments, refunds, cost savings, payments and deposits, whether now or later to be received from third parties (including, without limitation, all earnest money sales deposits) or deposited by Mortgagor with third parties (including, without limitation, all utility deposits), contract rights, development and use rights, governmental permits and licenses, applications, architectural and engineering plans, specifications and drawings, as-built drawings, chattel paper, instruments, documents, notes, drafts and letters of credit (other than letters of credit in favor of Mortgagee), which arise from or are related to construction on the Land or to any business now or later to be conducted on it, or to the Land and Improvements generally;

(i) all proceeds, including, without limitation, all claims to and demands for them, of the voluntary or involuntary conversion of any of the Land, Improvements or the other property described above into cash or liquidated claims, including, without limitation, proceeds of all present and future fire, hazards or casualty insurance policies and all condemnation awards or payments now or later to be made by any public body or decree by any court of competent jurisdiction for any taking or in connection with any condemnation or eminent domain proceeding, and all causes of action and their proceeds for any damage or injury to the Land, Improvements or the other property described above or any part of them, or breach of warranty in connection with the construction of the Improvements, including, without limitation, causes of action arising in tort, contract, fraud or concealment of a material fact;

(j) all books and records pertaining to any and all of the property described above, including, without limitation, computer-readable memory and any

computer hardware or software necessary to access and process such memory ("Books and Records");

(k) (i) the agreements described in Exhibit B attached hereto, which exhibit is incorporated herein by reference; (ii) all other agreements heretofore or hereafter entered into relating to the construction, ownership, operation, management, leasing or use of the Land or Improvements; (iii) any and all present and future amendments, modifications, supplements, and addenda to any of the items described in (i) and (ii) above; (iv) any and all guarantees, warranties and other undertakings (including, without limitation, payment and performance bonds) heretofore or hereafter entered into or delivered with respect to any of the items describe in clauses (i) through (iii) above; (v) all trade names, trademarks, logos and other materials used to identify or advertise, or otherwise relating to the Land or Improvements; and (vi) all building permits, governmental permits, licenses, variances, conditional or special use permits, and other authorizations (collectively, the "Permits") now or hereafter issued in connection with the construction, development, ownership, operating, management, leasing or use of the Land or Improvements, to the fullest extent that the same or any interest therein may be legally assigned by Mortgagor; and

(l) all proceeds of, additions and accretions to, substitutions and replacements for, and changes in any of the property described above.

Capitalized terms used above and elsewhere in this Mortgage without definition have the meanings given them in the Loan Agreement referred to in Section 1.2 below.

1.2. Secured Obligations. This Mortgage is made for the purpose of securing the following obligations (the "Secured Obligations") in any order of priority that Mortgagee may choose:

(a) Payment of all obligations at any time owing under a Note attached hereto as Exhibit C (the "Note"), of even date herewith, payable by Mortgage as maker in the stated principal amount of Nine Million Two Hundred Ten Thousand Dollars (\$9,210,000.00) to the order of Mortgagee, which Note matures and is due and payable in full not later than September 30, 2003; and

(b) Payment and performance of all obligations of Mortgagor under a Loan Agreement of even date herewith between Mortgagor, as borrower, and Mortgagee, as lender (the "Loan Agreement"); and

(c) Payment and performance of all obligations of Mortgagor under this Mortgage; and

(d) Payment and performance of any obligations of Mortgagor under any Loan Documents which are executed by Mortgagor, including, without limitation, the Environmental Indemnity; and

(e) Payment and performance of all future advances and other obligations that Mortgagor or any successor in ownership of all or part of the Property

may agree to pay and/or perform (whether as principal, surety or guarantor) for the benefit of Mortgagee, when a writing evidences the parties' agreement that the advance or obligation be secured by this Mortgage; and

(f) Payment and performance of all modifications, amendments, extensions and renewals, however evidenced, of any of the Secured Obligations.

All persons or entities that may have or acquire an interest in all or any part of the Property will be considered to have notice of, and will be bound by, the terms of the Secured Obligations and each other agreement or instrument made or entered into in connection with each of the Secured Obligations. These terms include any provisions in the Note or the Loan Agreement which provide that the interest rate on one or more of the Secured Obligations may vary from time to time.

2. **ASSIGNMENT OF RENTS.** As an inducement to Mortgagee to make the loan evidenced by the Note and the Loan Agreement, Mortgagor has contemporaneously herewith executed and delivered to Mortgagee an Assignment of Leases and Rents with respect to the Property (the "*Assignment of Leases and Rents*").

3. **GRANT OF SECURITY INTEREST.**

3.1. **Security Agreement.** The parties acknowledge that some of the Property and some or all of the Rents (as defined in the Assignment of Leases and Rents) may be determined under applicable law to be personal property or fixtures. To the extent that any Property or Rents may be personal property, Mortgagor as debtor hereby grants Mortgagee as secured party a security interest in all such Property and Rents, to secure payment and performance of the Secured Obligations. This Mortgage constitutes a security agreement under the Uniform Commercial Code as in effect in the State of Illinois (the "*Code*"), covering all such Property and Rents.

3.2. **Financing Statements.** Mortgagor shall execute one or more financing statements and such other documents as Mortgagee may from time to time require to perfect or continue the perfection of Mortgagee's security interest in any Property or Rents. Mortgagor shall pay all fees and costs that Mortgagee may incur in filing such documents in public offices and in obtaining such record searches as Mortgagee may reasonably require. In case Mortgagor fails to execute any financing statements or other documents for the perfection or continuation of any security interest, Mortgagor hereby appoints Mortgagee as its true and lawful attorney-in-fact to execute any such documents on its behalf.

3.3. **Fixture Filing.** This Mortgage constitutes a financing statement filed as a fixture filing under Section 9-313 and 9-402 of the Code, as amended or recodified from time to time, covering any of the Property which now is or later may become fixtures attached to the Land or the Improvements. The following addresses are the mailing address of Mortgagor, as debtor under the Code, and Mortgagee, as secured party under the Code, respectively:

**Mortgagor:**

Romanek Northbrook Place, L.L.C.  
8410 Bryn Mawr Avenue  
Chicago, Illinois 60631  
Federal Tax Identification No.

**Mortgagee:**

Transamerica Commercial Real Estate Finance, LLC  
6133 North River Road  
Suite 900  
Rosemont, Illinois 60018  
Reference: Romanek Northbrook Place, L.L.C.

**4. REPRESENTATIONS, COVENANTS AND AGREEMENTS.**

4.1. Good Title. Mortgagor covenants that it is lawfully seized of the Property, that the Property is unencumbered except for the Permitted Exceptions, and that it has good right, full power and lawful authority to convey and mortgage the same, and that it will warrant and forever defend the Property and the quiet and peaceful possession of the same against the lawful claims of all persons and entities.

4.2. Insurance. In the event of any loss or damage to any portion of the Property due to fire or other casualty, or a taking of any portion of the Property by condemnation or under the power of eminent domain, the settlement of all insurance and condemnation claims and awards and the application of insurance and condemnation proceeds shall be governed by Article 7 of the Loan Agreement.

4.3. Stamp Tax. If, by the laws of the United States of America, or of any state or political subdivision having jurisdiction over Mortgagor, any tax is due or becomes due in respect of the issuance of the Note, or recording of this Mortgage, Mortgagor covenants and agrees to pay such tax in the manner required by any such law. Mortgagor further covenants to hold harmless and agrees to indemnify Mortgagee, its successors or assigns, against any liability incurred by reason of the imposition of any tax on the issuance of the Note or recording of this Mortgage.

4.4. Changes in Taxation. In the event of the enactment after this date of any law of the State in which the Property is located or any political subdivision thereof deducting from the value of land for the purpose of taxation any lien thereon, or imposing upon Mortgagee the payment of the whole or any part of the taxes or assessments or charges or liens herein required to be paid by Mortgagor, or changing in any way the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee's interest in the Property, or the manner of collection of taxes, so as to affect this Mortgage or the Secured Obligations, then Mortgagor, upon demand by Mortgagee, shall pay such taxes or assessments, or reimburse Mortgagee therefor; provided, however, that if in the opinion of counsel for Mortgagee (i) it might be unlawful to require Mortgagor to make such payment or (ii) the making of such payment might result in the imposition of interest beyond the maximum amount permitted by law, then Mortgagee

may elect, by notice in writing given to Mortgagor, to declare all of the Secured Obligations to be and become due and payable sixty (60) days from the date of the giving of such notice.

4.5. Subrogation. Mortgagee shall be subrogated to the liens of all encumbrances, whether released of record or not, which are discharged in whole or in part by Mortgagee in accordance with this Mortgage or with the proceeds of any loan secured by this Mortgage.

4.6. Notice of Change. Mortgagor shall give Mortgagee prior written notice of any change in: (a) the location of its place of business or its chief executive office if it has more than one place of business; (b) the location of any of the Property, including, without limitation, the Books and Records; and (c) Mortgagor's name or business structure. Unless otherwise approved by Mortgagee in writing, all Property that consists of personal property (other than the Books and Records) will be located on the Land and all Books and Records will be located at Mortgagor's place of business or chief executive office if Mortgagor has more than one place of business.

4.7. Releases, Extensions, Modifications and Additional Security. From time to time, Mortgagee may perform any one or more of the following acts without incurring any liability or giving notice to any person or entity: (i) release any person or entity liable for payment of any Secured Obligation; (ii) extend the time for payment, or otherwise alter the terms of payment, of any Secured Obligation; (iii) accept additional real or personal property of any kind as security for any Secured Obligation, whether evidenced by deeds of trust, mortgages, security agreements or any other instruments of security; (iv) alter, substitute or release any property securing the Secured Obligations; (v) consent to the making of any plat or map of the Property or any part of it; (vi) join in granting any easement or creating any restriction affecting the Property; or (vii) join in any subordination or other agreement affecting this Mortgage or the lien of it.

## 5. DEFAULTS AND REMEDIES.

5.1. Events of Default. An "Event of Default," as defined in the Loan Agreement, shall constitute an Event of Default hereunder.

5.2. Remedies. At any time after an Event of Default, Mortgagee shall be entitled to invoke any and all of the rights and remedies described below, in addition to all other rights and remedies available to Mortgagee at law or in equity. All of such rights and remedies shall be cumulative, and the exercise of any one or more of them shall not constitute an election of remedies.

(a) Acceleration. Mortgagee may declare any or all of the Secured Obligations to be due and payable immediately.

(b) Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through Mortgagor, and without regard for the solvency or insolvency of Mortgagor or the then value of the Property, to the extent permitted by applicable law, be entitled to have a

receiver appointed for all or any part of the Property and the Rents, and the proceeds, issues and profits thereof, with the rights and powers referenced below and such other rights and powers as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Such receiver shall have all powers and duties prescribed by Section 15-1704 of the Illinois Mortgage Foreclosure Law (the "Act"), all other powers which are necessary or usual in such cases for the protection, possession, control, management and operation of the Property, and such rights and powers as Mortgagee would have, upon entering and taking possession of the Property under subsection (c) below.

(c) Entry. Mortgagee, in person, by agent or by court-appointed receiver, may enter, take possession of, manage and operate all or any part of the Property, and may also do any and all other things in connection with those actions that Mortgagee may in its sole discretion consider necessary and appropriate to protect the security of this Mortgage. Such other things may include, but shall not be limited to: taking and possessing all of Mortgagor's or the then owner's Books and Records; entering into, enforcing, modifying or canceling leases on such terms and conditions as Mortgagee may consider proper; obtaining and evicting tenants; fixing or modifying Rents; collecting and receiving any payment of money owing to Mortgagor; completing any unfinished construction; and/or contracting for and making repairs and alterations. If Mortgagee so requests, Mortgagor shall assemble all of the Property that has been removed from the Land and make all of it available to Mortgagee at the site of the Land. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact to perform such acts and execute such documents as Mortgagee in its sole discretion may consider to be appropriate in connection with taking these measures, including, without limitation, endorsement of Mortgagor's name on any instruments.

(d) Cure; Protection of Security. Mortgagee may cure any breach or default of Mortgagor, and if it chooses to do so in connection with any such cure, Mortgagee may also enter the Property and/or do any and all other things which it may, in its sole discretion, consider necessary and appropriate to protect the security of this Mortgage. Such other things may include: appearing in and/or defending any action or proceeding which purports to affect the security of, or the rights or powers of Mortgagee under this Mortgage; paying, purchasing, contesting or compromising any encumbrance, charge, lien or claim of lien which, in Mortgagee's sole judgment, is or may be senior in priority to this Mortgage; such judgment of Mortgagee to be conclusive as between parties to this Mortgage; obtaining insurance and/or paying any premiums or charges for insurance required to be carried under the Loan Agreement; otherwise caring for and protecting any and all of the Property; and/or employing counsel, accountants, contractors and other appropriate persons to assist Mortgagee. Mortgagee may take any of the actions permitted under this Section 5.2(d) either with or without giving notice to any person or entity. Any amounts expended by Mortgagee under this Section 5.2(d) shall be secured by this Mortgage.

(e) Uniform Commercial Code Remedies. Mortgagee may exercise any or all of the remedies granted to a secured party under the Code.

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(f) Foreclosure; Lawsuits. Mortgagee shall have the right, in one or several concurrent or consecutive proceedings, to foreclosure the lien hereof upon the Property or any part thereof, for the Secured Obligations, or any part thereof, by any proceedings appropriate under applicable law. Mortgagee or its nominee may bid and become the purchaser of all or any part of the Property at any foreclosure or other sale hereunder, and the amount of Mortgagee's successful bid shall be credited on the Secured Obligations. Without limiting the foregoing, Mortgagee may proceed by a suit or suits in law or equity, whether for specific performance of any covenant or agreement herein contained or contained in any of the other Loan Documents, or in aid of the execution of any power herein granted, or for any foreclosure under the judgment or decree of any court of competent jurisdiction, or for damages, or to collect the indebtedness secured hereby, or for the enforcement of any other appropriate legal, equitable, statutory or contractual remedy. Mortgagee may sell the Property at public auction in one or more parcels, at Mortgagee's option, and convey the same to the purchaser in fee simple, Mortgagee to remain liable for any deficiency for which Mortgagor shall be personally liable.

(g) Other Remedies. Mortgagee may exercise all rights and remedies contained in any other instrument, document, agreement or other writing heretofore, concurrently or in the future executed by Mortgagor or any other person or entity in favor of Mortgagee in connection with the Secured Obligations or any part thereof, without prejudice to the right of Mortgagee thereafter to enforce any appropriate remedy against Mortgagor. Mortgagee shall have the right to pursue all remedies afforded to a mortgagee under the Act and other applicable law, and shall have the benefit of all of the provisions of the Act and such applicable law, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Act which is specifically referred to herein may be repealed, Mortgagee shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

(h) Power of Sale for Personal Property. Under this power of sale, Mortgagee shall have the discretionary right to cause some or all of the Property, which constitutes personal property, to be sold or otherwise disposed of in any combination and in any manner permitted by applicable law.

(i) For purposes of this power of sale, Mortgagee may elect to treat as personal property any Property which is intangible or which can be severed from the Land or Improvements without causing structural damage. If it chooses to do so, Mortgagee may dispose of any personal property in any manner permitted by Article 9 of the Code, including, without limitation, any public or private sale, or in any manner permitted by any other applicable law.

(ii) In connection with any sale or other disposition of such Property, Mortgagor agrees that the following procedures constitute a commercially reasonable sale: Mortgagee shall mail



written notice of the sale to Mortgagor not later than ten (10) days prior to such sale. Upon receipt of any written request, Mortgagor will make the Property available to any bona fide prospective purchaser for inspection during reasonable business hours. Notwithstanding any election by Mortgagee to sell the Property, Mortgagee shall be under no obligation to consummate a sale if, in its judgment, none of the offers received by it equals the fair value of the Property offered for sale. The foregoing procedures do not constitute the only procedures that may be commercially reasonable.

(i) Single or Multiple Foreclosure Sales. If the Property consists of more than one lot, parcel or item of property, Mortgagee may:

(i) designate the order in which the lots, parcels and/or items shall be sold or disposed of or offered for sale or disposition; and

(ii) elect to dispose of the lots, parcels and/or items through a single consolidated sale or disposition to be held or made under or in connection with judicial proceedings, or by virtue of a judgment and decree of foreclosure and sale, or pursuant to the power of sale contained herein; or through two or more such sales or dispositions; or in any other manner Mortgagee may deem to be in its best interests (any foreclosure sale or disposition as permitted by the terms hereof is sometimes referred to herein as a "Foreclosure Sale" and any two or more such sales, "Foreclosure Sales").

If it chooses to have more than one Foreclosure Sale, Mortgagee at its option may cause the Foreclosure Sales to be held simultaneously or successively, on the same day, or on such different days and at such different times and in such order as it may deem to be in its best interests. No Foreclosure Sale shall terminate or affect the liens of this Mortgage on any part of the Property which has not been sold, until all of the Secured Obligations have been paid in full.

5.3. Application of Foreclosure Sale Proceeds. The proceeds of any Foreclosure Sale shall be applied in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the expenses of sale, costs of any action and any other sums for which Mortgagor is obligated to reimburse Mortgagee hereunder or under the other Loan Documents;

(b) Second, to pay the portion of the Secured Obligations attributable to any sums expended or advanced by Mortgagee under the terms of this Mortgage which then remain unpaid;

(c) Third, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(d) Fourth, to remit the remainder, if any, to the person or persons entitled to it.

5.4. Application of Rents and Other Sums. Mortgagee shall apply any and all Rents collected by it in the manner provided in the Assignment of Leases and Rents. Any and all sums other than Rents collected by Mortgagee or a receiver and proceeds of a Foreclosure Sale which Mortgagee may receive or collect under Section 5.2 shall be applied in the following manner:

(a) First, to pay the portion of the Secured Obligations attributable to the costs and expenses of operation and collection that may be incurred by Mortgagee or any receiver;

(b) Second, to pay all other Secured Obligations in any order and proportions as Mortgagee in its sole discretion may choose; and

(c) Third, to remit the remainder, if any, to the person or persons entitled to it.

6. **RELEASE OF LIEN.** If Mortgagor shall fully pay and perform all of the Secured Obligations and comply with all of the other terms and provisions hereof and the other Loan Documents to be performed and complied with by Mortgagor, then Mortgagee shall release this Mortgage and the lien thereof by proper instrument upon payment, performance and discharge of all of the Secured Obligations and payment by Mortgagor of any filing fee in connection with such release.

## 7. **MISCELLANEOUS PROVISIONS.**

7.1. Additional Provisions. The Loan Documents fully state all of the terms and conditions of the parties' agreement regarding the matters mentioned in or incidental to this Mortgage. The other Loan Documents also grant further rights to Mortgagee and contain further agreements and affirmative and negative covenants by Mortgagor which apply to this Mortgage and the Property.

7.2. Giving of Notice. Any notice, demand, request or other communication which any party hereto may be required or may desire to give hereunder shall be given as provided in Section 11.3 of the Loan Agreement.

7.3. Remedies Not Exclusive. No action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the Note. Mortgagee shall be entitled to enforce payment and performance of any of the Secured Obligations and to exercise all rights and powers under this Mortgage or other agreement or any laws now or hereafter in force, notwithstanding some or all of the Secured Obligations may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien,

assignment or otherwise. Neither the acceptance of this Mortgage nor its enforcement, whether by court action or other powers herein contained, shall prejudice or in any manner affect Mortgagee's right to realize upon or enforce any other security now or hereafter held by Mortgagee, it being agreed that Mortgagee shall be entitled to enforce this Mortgage and any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now hereafter existing at law or in equity or by statute. No waiver of any default of the Mortgagor hereunder shall be implied from any omission by Mortgagee to take any action on account of such default if such default persists or is repeated, and no express waiver shall affect any default other than the default specified in the express waiver and that only to the time and to the extent therein stated. No acceptance of any payment of any one or more delinquent installments which does not include interest at the Default Rate from the date of delinquency, together with any required late charge, shall constitute a waiver of the right of Mortgagee at any time thereafter to demand and collect payment of interest at such Default Rate or of late charges, if any.

7.4. Waiver of Statutory Rights. To the extent permitted by law, Mortgagor hereby agrees that it 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 or foreclosure of this Mortgage, and Mortgagor hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the Property and estates comprising the Property marshaled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Property sold as an entirety. Mortgagor hereby waives any and all rights of redemption from sale under the power of sale contained herein or any order or decree of foreclosure of this Mortgage on its behalf and on behalf of each and every person and entity, except decree or judgment creditors of Mortgagor, acquiring any interest in or title to the Property subsequent to the date of this Mortgage.

7.5. Estoppel Affidavits. Mortgagor, within five (5) days after written request from Mortgagee, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal of, and interest on, the Secured Obligations and stating whether or not any offset or defense exists against such Secured Obligations, and covering such other matters as Mortgagee may reasonably require.

7.6. Merger. No merger shall occur as a result of Mortgagee's acquiring any other estate in or any other lien on the Property unless Mortgagee consents to a merger in writing.

7.7. Binding on Successors and Assigns. This Mortgage and all provisions hereof shall be binding upon Mortgagor and all persons and entities claiming under or through Mortgagor, and shall inure to the benefit of Mortgagee and its successors and assigns.

7.8. Captions. The captions and headings of various paragraphs of this Mortgage are for convenience only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

7.9. Severability. If all or any portion of any provision of this Mortgage shall be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision hereof or thereof, and such provisions shall be limited and construed as if such invalid, illegal or unenforceable provision or portion thereof was not contained herein.

7.10. Effect of Extensions of Time and Amendments. If the payment of the Secured Obligations or any part thereof be extended or varied or if any part of the security be released, all persons and entities now or at any time hereafter liable therefor, or interested in the Property, shall be held to assent to such extension, variation or release, and their liability and the lien and all provisions hereof shall continue in full force, the right of recourse, if any, against all such persons and entities being expressly reserved by Mortgagee, notwithstanding such extension, variation or release. Nothing in this Section 7.10 shall be construed as waiving any provision contained herein or in the Loan Documents which provides, among other things, that it shall constitute an Event of Default if the Property be sold, conveyed, or encumbered.

7.11. Mortgagee's Lien for Service Charge and Expenses. At all times, regardless of whether any proceeds of the loan secured hereby have been disbursed, this Mortgage secures (in addition to the amounts secured hereby) the payment of any and all commissions, service charges, liquidated damages, expenses and advances due to or incurred by Mortgagee in connection with such loan; provided, however, that in no event shall the total amount secured hereby exceed two hundred percent (200%) of the face amount of the Note.

7.12. Applicable Law. This Mortgage shall be governed by and construed under the internal laws of the State of Illinois.

7.13. Due on Sale Clause. As more fully set forth in Section 8.2 of the Loan Agreement, the transfer or encumbrance of the Property, or any interest therein, or the transfer of an interest in Mortgagor, except for the permitted transfers set forth in Section 8.3 of the Loan Agreement, without prior written consent of Mortgagee shall constitute an Event of Default.

7.14. Time is of the Essence. Time is of the essence with respect to each and every covenant, agreement and obligation of Mortgagor under this Mortgage, the Note and the other Loan Documents.

7.15. Recordation. Mortgagor forthwith upon the execution and delivery of this Mortgage, and thereafter for time to time, will cause this Mortgage, and any security instrument creating a lien or evidencing the lien hereof upon the Property, or any portion thereof, 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

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law in order to publish notice of and fully protect the lien hereof upon, and the interest of Mortgagee in, the Property.

Mortgagor will pay all filing, registration or recording fees and taxes, and all expenses incident to the preparation, execution and acknowledgment of this Mortgage, any mortgage supplement hereto, any security instrument with respect to the Property and any instrument of further assurance, and all federal, state, county and municipal stamp taxes, duties, impositions, assessments and charges arising out of or in connection with the execution and delivery of the Note, this Mortgage, any mortgage supplemental hereto, any security instrument, any other Loan Documents or any instrument of further assurance.

7.16. Modifications. This Mortgage may not be changed or modified except in writing signed by both parties. The provisions of this Mortgage shall extend and be applicable to all renewals, amendments, extensions, consolidations, and modifications of the other Loan Documents, and any and all references herein to the Loan Documents shall be deemed to include any such renewals, amendments, extensions, consolidations or modifications thereof.

7.17. Independence of Security. Mortgagor shall not by act or omission permit any building or other improvement on any premises not subject to the lien of this Mortgage to rely on the Property or any part thereof or any interest therein to fulfill any municipal or governmental requirement, and Mortgagor hereby assigns to Mortgagee any and all rights to give consent for all or any portion of the Property to rely on any premises not subject to the lien of this Mortgage or any interest therein to fulfill any municipal or governmental requirement. Mortgagor shall not by act or omission impair the integrity of the Property as a single zoning lot, and as one or more complete tax parcels, separate and apart from all other premises. Any act or omission by Mortgagor which would result in a violation of any of the provisions of this Section 7.18 shall be void.

IN WITNESS WHEREOF, Mortgagor has executed this Mortgage as of the date first written above.

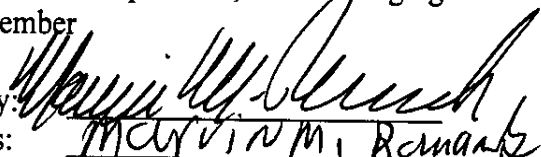
**MORTGAGOR**

**ROMANEK NORTHBROOK PLACE,  
L.L.C., an Illinois limited liability company**

By: Romanek Properties, Ltd., an  
Illinois corporation, its managing  
member

By:

Its:

  
Marvin M. Romanek  
President

Property of Cook County Clerk's Office

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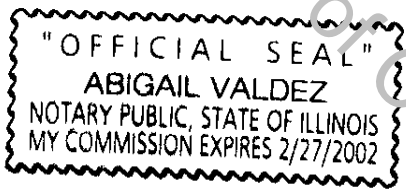
STATE OF ILLINOIS

00784245

COUNTY OF \_\_\_\_\_ ) ss

On the 3rd day of October, 2000 before me, a notary public in and for the State and County aforesaid, personally appeared Marvin M. Romanek, who acknowledged himself/herself to be the President of ROMANEK PROPERTIES, LTD., an Illinois corporation, the managing member of ROMANEK NORTHBROOK PLACE, L.L.C., an Illinois limited liability company, and that he/she as such officer, being authorized to do, executed the foregoing instrument for the purposes therein contained ~~by signing the name of the authorized agent of the corporation by himself/herself as such~~

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.



Abigail Valdez  
Notary Public  
My Commission Expires: 022702

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## EXHIBIT A

### Legal Description

Lot 9 in Northbrook Court Office Plaza, being a subdivision of the part of the North west 1/4 of Section 2, Township 42 North, Range 12, East of the Third Principal Meridian, in Cook County, Illinois.

04-02-100-021

2 NORTHBROOK PLACE

60 REVERE DRIVE

NORTHBROOK, ILLINOIS

Property of Cook County Clerk's Office



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EXHIBIT B

00784245

AGREEMENTS

Management Agreement dated April 15, 1997  
between Mortgagor and Romanek Properties, Ltd.

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EXHIBIT C

00784245

PROMISSORY NOTE

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Loan No:12124

00784245

## NOTE

\$9,210,000.00

October 3, 2000, Chicago, Illinois

1. FOR VALUE RECEIVED, ROMANEK NORTHBROOK PLACE, L.L.C., an Illinois limited liability company ("Maker") promises to pay to the order of TRANSAMERICA COMMERCIAL REAL ESTATE FINANCE, LLC ("Lender") at 6133 North River Road, Suite 900, Rosemont, Illinois, or at such other place as Lender from time to time may designate, the principal sum of Nine Million Two Hundred Ten Thousand Dollars (\$9,210,000.00) (the "Loan Amount"), or so much of that sum as may be advanced under this note ("Note"), plus interest as specified in this Note. This Note evidences a loan ("Loan") from Lender to Maker.

2. This Note is secured by a mortgage ("Mortgage") covering certain real and personal property, as therein described (the "Property"). It may also be secured by other collateral. This Note and the Mortgage are two of several Loan Documents, as defined and designated in a loan agreement ("Loan Agreement") between Lender and Maker. Some or all of the Loan Documents, including the Loan Agreement, contain provisions for the acceleration of the maturity of this Note. Any capitalized terms not defined herein shall have the meaning ascribed to such terms in the Loan Agreement.

3. Definitions.

"Advance" shall mean portions of the indebtedness created by disbursements or advances by Lender pursuant to or as authorized under the terms of the Loan Agreement.

"Business Day" means with respect to any borrowing, payment or Interest Period, a day (other than Saturday or Sunday) on which banks generally are open in Chicago and New York for the conduct of substantially all of their commercial lending activities and on which dealings in United States dollars are carried on in the London interbank market.

"Interest Increment" means 3.14%.

"Interest Period" means the period commencing on the date of an Advance and ending on the 90<sup>th</sup> day thereafter and each subsequent period commencing on the last day of the immediately preceding Interest Period and ending on the 90<sup>th</sup> day thereafter, provided, however, that (i) no Interest Period shall end after the Maturity Date; and (ii) whenever the last day of any Interest Period would otherwise occur on a day other than a Business Day, the last day of such Interest Period shall be extended to occur on the next succeeding Business Day, except that if such extension would cause the last day of such Interest Period to occur in the next following

calendar month, then the last day of such Interest Period shall occur on the next preceding Business Day. Notwithstanding the foregoing, with respect to all Advances other than the initial Advance, the first Interest Period shall commence on the date of any such Advance and end as of the ending date of the then current Interest Period applicable to the initial Advance.

"LIBOR Rate" means, with respect to each Interest Period, the corresponding rate per annum for 90 day LIBOR that appears in The Wall Street Journal on the first day of such Interest Period, except for the first Interest Period in which case the applicable rate shall be the corresponding rate per annum for 90 day LIBOR that appears in The Wall Street Journal on the second Business Day immediately prior to the first day of such Interest Period; provided, however, that if The Wall Street Journal no longer publishes the 90 day LIBOR, reference shall be made to the Reuters Screen ISDA page for such rate.

"Maturity Date" means September 30, 2003.

4. Interest. The principal sum outstanding from time to time on this Note shall bear interest in accordance with the provisions hereof. Interest shall be calculated on the basis of a 360-day year and the actual days elapsed. The Maker shall pay to the Lender interest on the Advances, payable monthly in arrears on the first Business Day of each month, commencing with the month immediately following the date hereof, and on the Maturity Date, at a rate which is equal at all times during each Interest Period to (i) the LIBOR Rate plus (ii) the Interest Increment. In computing interest on any Advance, the first day of an Interest Period shall be included and the ending date of an Interest Period shall be excluded. Notwithstanding anything to the contrary contained in the Note, Maker shall have no more than four (4) different Interest Periods outstanding for Advances at any time.

5. Principal Payments. Unless the Loan is accelerated pursuant to the terms of the Loan Documents, repayment of the principal amount of this loan shall commence on the first Business Day of the 13<sup>th</sup> full month after the date hereof (the "Initial Principal Payment Date") and continue on a monthly basis on the first Business Day of each month thereafter until the Maturity Date. Commencing on such Initial Principal Payment Date, and in addition to the interest payments due in accordance herewith, Maker shall make payments to Lender in reduction of the principal balance of the Loan, and monthly thereafter, in an amount calculated by Lender in accordance with the following formula: An amount equal to the principal due monthly on a fixed rate loan in the Loan Amount amortized over twenty five (25) years at the Applicable Rate.

The "Applicable Rate" shall be equal to (i) the LIBOR Rate two (2) days prior to the Initial Principal Payment Date plus, (ii) the Interest Increment.

6. Payment Procedures; Collections.

(a) All payments (including prepayments) to be made by the Maker hereunder and under the Loan Documents, whether on account of principal, interest, fees or otherwise, shall be made without setoff, deduction, defense, recoupment, claim or counterclaim and shall be made prior to 1:00 p.m., Chicago time, on the due date thereof to the Lender as expressly provided, in immediately available funds.

(b) Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, the payment may be made on the next succeeding Business Day and

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such extension of time shall be included in the computation of the amount of interest due hereunder.

7. Yield Protection. If, on or after the date hereof, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in the interpretation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Lender with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency:

- (i) subjects Lender to any taxes, or changes the basis of taxation of payments to Lender in respect of its loans (other than income taxes), or
- (ii) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, Lender (other than reserves and assessments taken into account in determining the interest rate applicable to Advances), or
- (iii) imposes any other condition the result of which is to increase the cost to Lender of making, funding or maintaining its loans or reduces any amount receivable by Lender in connection with its loans, or requires Lender to make any payment calculated by reference to the amount of loans held or interest received by it, by an amount deemed material by Lender,

and the result of any of the foregoing is to increase the cost to Lender of making or maintaining its loans or commitment or to reduce the return received by Lender in connection with such loans or commitment, then, within 15 days of demand by Lender, the Maker shall pay Lender such additional amount or amounts as will compensate Lender for such increased cost or reduction in amount received.

A certificate as to the amount of such increased cost or such loss, cost or expense and setting forth in reasonable detail the calculation thereof shall be submitted to the Maker by the Lender, and shall be conclusive absent manifest error.

8. Changes in Capital Adequacy Regulations. If Lender determines generally with respect to similar loans that the amount of capital required or expected to be maintained by Lender, or any entity controlling Lender is increased as a result of a "Change", then, within 15 days of demand by Lender, the Maker shall pay Lender the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital which Lender determines is attributable to this Note, its loans or its commitment to make Advances under the Loan Agreement (after taking into account Lender's policies as to capital adequacy). "Change" means (i) any change after the date of this Note in the Risk-Based Capital Guidelines or (ii) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the date of this Note which affects the amount of capital required or expected to be maintained by Lender or any entity controlling Lender. "Risk-Based Capital Guidelines" means (i) the

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risk-based capital guidelines in effect in the United States on the date of this Note, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States implementing the July 1988 report of the Basle Committee on Banking Regulation and Supervisory Practices Entitled "International Convergence of Capital Measurements and Capital Standards," including transition rules, and any amendments to such regulations adopted prior to the date of this Note. Notwithstanding anything herein to the contrary, in no event shall Maker be required to pay any amounts under this paragraph with respect to events which have occurred for which Maker has made a payment under Paragraph 7 above.

9. Funding Indemnification. If any payment of an Advance occurs on a date which is not the last day of the applicable Interest Period, whether because of acceleration, prepayment or otherwise, the Maker will indemnify Lender for any loss or cost incurred by it resulting therefrom, including without limitation, any loss or cost in liquidating or employing deposits acquired to fund or maintain such Advance.

10. Prepayment.

- (a) Maker shall provide Lender not less than thirty (30) and not more than sixty (60) days prior written notice of a proposed prepayment of some or all of the principal of this Note. Any tender of payment of some or all of the principal of this Note, except as expressly set forth in this Section 10, shall constitute a prohibited prepayment hereunder.
- (b) Upon the occurrence of a sale by Borrower of its entire ownership interest in the Property to an unrelated third party which is not an Affiliated Party, Maker may prepay some or all of the principal of this Note, subject to the terms of Section 10(a) above, without premium or further payment. In all other cases, Maker may prepay some or all of the principal of this Note, subject to the terms of Section 10(a) above, upon payment of a prepayment premium equal to one percent (1%) of the prepaid amount prior to September 30, 2001 and one-half percent (0.5%) of the prepaid amount after September 30, 2001 or prior to September 30, 2002. Thereafter any prepayment may be made without further payment.

11. Default Rate. From and after such time as an Event of Default occurs, the outstanding principal balance shall bear interest at the lesser of: (a) 18%, or (b) the maximum rate allowed by law, such interest in either event to be payable from time to time on demand by Lender.

12. Events of Default and Acceleration. The occurrence of any of the following shall constitute an Event of Default hereunder: (a) default in any payment of principal when due in accordance with the terms hereof, or (b) default in the payment of interest under this Note, which default continues for 2 (two) days after written notice thereof; or (c) in case at any time hereafter an Event of Default has occurred under the Loan Agreement. Upon the occurrence of an Event of Default, it is agreed that at the election of Lender, the principal sum remaining unpaid hereof, together with accrued interest thereon, shall become at once due and payable at the place of payment aforesaid.

13. Waiver. Maker waives presentment for payment, notice of dishonor, protest and notice of protest.

14. Notice. Any notice demand, request or other communication which Lender or the Maker may be required or may desire to give hereunder shall be in writing, addressed as follows, and shall be deemed to be properly given if (i) hand delivered (effective upon delivery), (ii) sent by reputable overnight courier (effective the Business Day following delivery to such courier), (iii) sent by telecopier (effective on the date of such transmittal), or (iv) mailed by United States registered or certified mail, postage prepaid, return receipt requested (effective two (2) Business Days after deposit in the United States mails).

If to Maker:

**Romanek Northbrook Place, L.L.C.**  
8410 Bryn Mawr Avenue  
Chicago, Illinois 60631  
Attn: Peter Holstein  
Fax: 773.864.8610

With a copy to:

**Piper Marbury Rudnick & Wolfe**  
203 North LaSalle Street  
Suite 1800  
Chicago, Illinois 60601  
Attn: David Glickstein  
Fax: 312.236.7516

If to Lender:

**Transamerica Commercial Real Estate Finance, LLC**  
6133 North River Road, Suite 900  
Rosemont, Illinois 60018  
Attention: Frederick E. Harper  
Reference: Romanek Northbrook Place, L.L.C.

With a copy to:

**Katten Muchin Zavis**  
525 West Monroe Street  
Suite 1600  
Chicago, Illinois 60661  
Attention: Gary J. Fox  
Fax: 312.577.4502

Or at such other address or to such other addresses as the party to be served with notice may have furnished in writing to the party seeking or desiring to serve notice as a place for the service of notice.

15. Late Charges. If an installment due hereunder is not timely paid and such nonpayment continues for a period of ten (10) days, then, provided Lender has provided notice of such nonpayment in accordance with Section 12 above, Lender may collect a "late charge" equal to 5% of any installment which is not paid on the due date thereof to cover the extra expense involved in handling delinquent payments.

16. Severability. The parties hereto intend and believe that each provision in this Note comports with all applicable local, state and federal laws and judicial decisions. However, if any provision or provisions, or if any portion of any provision or provisions, in this Note is found by a court of law to be in violation of any applicable local, state and federal ordinance, statute, law, administrative or judicial decision, or public policy, and if such court should declare such portion, provision or provisions of this Note to be illegal, invalid, unlawful, void or unenforceable as written, then it is the intent of all parties hereto that such portion, provision or provisions shall be given force to the fullest possible extent that they are legal, valid and enforceable, that the remainder of this Note shall be construed as if such illegal, invalid, unlawful, void or unenforceable portion, provision or provisions were not contained therein, and that the rights, obligation and interest of Maker and Lender under the remainder of this Note shall continue in full force and effect. All agreements herein are expressly limited so that in no contingency or event whatsoever, whether by reason of advancement of the proceeds hereof, acceleration of maturity of the unpaid principal balance hereof, or otherwise, shall the amount paid or agreed to be paid to Lender for the use, forbearance or detention of the money to be advanced hereunder exceed the highest lawful rate permissible under applicable laws. If, from any circumstances whatsoever, fulfillment of any provision hereof at the time performance of such provisions shall be due, shall involve transcending the limit of validity prescribed by law which a court of competent jurisdiction may deem applicable hereto, then, ipso facto, the obligation to be fulfilled shall be reduced to the limit of such validity and if from any circumstance Lender shall ever receive as interest an amount which would exceed the highest lawful rate, such amount which would be excessive interest shall be applied to the reduction of the unpaid principal balance due hereunder and not to the payment of interest.

17. Payment of Expenses. If any payment under this Note is not made when due, Maker agrees to pay all costs of collection when incurred, including attorneys' fees and costs (which amounts may be added to the principal balance due hereunder).

18. Applicable Laws. Maker represents and agrees that this instrument and the rights and obligations of all parties hereunder shall be governed by and construed under the internal laws of the State of Illinois (without regard to the conflict of laws principles applicable in such State).

19. Additional Security. Maker agrees that Lender may accept additional or substitute security for this Note, or release any security or any party liable for this Note, or extend or renew this Note, all without notice to Maker and without affecting the liability of Maker.

20. Election of Remedies. If Lender delays in exercising or fails to exercise any of its rights under this Note, that delay or failure shall not constitute a waiver of any of Lender's rights, any