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COFFICE MUTUAL DES PLAINES / KMORT.WPD/122100
PREPARED BY AND AFTER
RECORDING RETURN TO:
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0010059778

8722/0014 45 001 Page 1 of 33
2001-01-24 11:28:21
Cook County Recorder 85.00



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FOR RECORDERS USE ONLY

MORTGAGE

THIS MORTGAGE made as of the 1st day of January, 2001 between ROSNOR BUILDING ASSOCIATES, LLC, an Illinois limited liability company, hereinafter referred to as "Mortgagor", and MTL INSURANCE COMPANY, an Illinois corporation, having its Home Office in Oak Brook, Illinois, hereinafter referred to as "Mortgagee".

WITNESSETH:

That Mortgagor is justly indebted to Mortgagee for money borrowed in the amount of ONE MILLION ONE HUNDRED THOUSAND DOLLARS (\$1,100,000.00) as evidenced by a Promissory Note (which promissory note together with any and all other notes executed and delivered in substitution, renewal, or extension thereof, in whole or in part, are collectively referred to as "Note") executed by Mortgagor of even date herewith, made payable to the order of and delivered to Mortgagee, by the provisions of which Mortgagor promises to pay to Mortgagee the principal amount of Note and interest thereon as provided in Note together with all other sums (up to but not exceeding two hundred percent (200%) of the principal amount of Note) advanced by Mortgagee to protect the "Mortgaged Premises" (hereafter defined) to preserve the priority of the lien established hereby ("Other Sums"), at the place or places set forth in Note. The principal amount of Note, interest due thereon, any applicable prepayment premium provided for in Note, and Other Sums are collectively referred to as "Indebtedness" and the Note has a final installment of principal and interest due and payable on February 1, 2011.

NOW, THEREFORE, Mortgagor, to secure the payment of Indebtedness and the performance of the terms, covenants, conditions and agreements contained herein and in Note, and any other document executed and delivered to secure Indebtedness (collectively "Other Loan Documents"), DOES, by these presents, MORTGAGE, GRANT, SELL AND CONVEY unto Mortgagee, its successors and assigns, forever, the following described land situated in the City of Des Plaines, County of Cook and State of Illinois ("Land"):

BOX 333-CT1

7891637, 657, 2044

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Parcel 1:

Lot 10 in Anderson Miller Des Plaines Industrial Park North, being a Subdivision of the South 1/2 of the Southwest Fractional 1/4 of Section 19, Township 41 North, Range 12, East of the Third Principal Meridian (except that part taken for Oakton Street), as described in Document 10627381, recorded April 3, 1930 in Book of Plats No. 284, Pages 18 to 25, including, in CCI.

Parcel 2:

Lot 9 in Anderson Miller Des Plaines Industrial Park North, being a Subdivision of the South 1/2 of the Southwest Fractional 1/4 of Section 19, Township 41 North, Range 12, East of the Third Principal Meridian (except that part taken for Oakton Street) as described in Document 10627381, recorded April 3, 1930 in Book of Plats No. 284, Pages 18 to 25, inclusive, except that part thereof more fully described as follows.

Beginning at the most Northerly corner of Lot 9; thence Southwesterly along the Northerly curved line of said Lot 9, the radial line of said curve forms an angle of 63 degrees, 45 minutes, 16 seconds from North to West with said East line of Lot 9, said curve is convexed Southeasterly, having a radius of 397.80 feet, a distance of 257.22 feet (arc); thence South along the radial line of said curve, extended South; also being the Westerly line of Lot 9, a distance of 12.50 feet; thence Northeasterly along a curved line, convexed Southeasterly, having a radius of 410.30 feet, a distance of 241.44 feet (arc) to point on the East line of said Lot 9; thence North along the East line of said Lot 9, a distance of 26.64 feet to the point of beginning, all in Cook County, Illinois.

Address of Property: 200 East Oakton Street, Des Plaines, Illinois
Permanent Index No.: 09-19-301-017 and 09-19-301-025

TOGETHER WITH (collectively "Other Interests"):

A. All right, title and interest of the Mortgagor including any after-acquired title or reversion, in and to the beds of ways, roads, streets, avenues and alleys adjoining Land.

B. All and singular the tenements, hereditaments, easements, appurtenances, passages, waters, water rights, water courses, riparian rights, other rights, liberties and privileges thereof or in any way now or hereafter appertaining, including any other claim at law or in equity as well as any after-acquired title, franchise or license and the reversion and reversions and remainder and remainders thereof.

C. All buildings and improvements of every kind and description now or hereafter located or placed upon Land ("Improvements) and all materials intended for construction, re-

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construction, alteration and repairs of Improvements all of which materials shall be deemed a part thereof immediately upon the delivery of same, and all fixtures and articles of personal property now or hereafter owned by the Mortgagor and attached to or contained in and used in connection with Land and Improvements, including but not limited to all cranes and craneways, furniture, furnishings, apparatus, machinery, motors, elevators, fittings, radiators, gas ranges, ice boxes, mechanical refrigerators, awnings, shades, screens, blinds, office equipment, carpeting and other furnishings, and all plumbing, heating, lighting, cooking, laundry, ventilating, refrigerating, incinerating, air-conditioning and sprinkler equipment and fixtures and appurtenances thereto, and all renewals or replacements thereof or articles in substitution therefore, whether or not the same are or shall be attached to Improvements in any manner, excepting therefrom, however, any furniture, fixtures, equipment and articles of personal property, regardless of the manner or mode of attachment, belonging to any present or future tenant or lessee of Land and Improvements (any reference hereafter made to furniture, fixtures, equipment or personal property shall be deemed to exclude the same); IT BEING MUTUALLY AGREED that all the aforesaid property owned by Mortgagor and placed by it on Land and Improvements shall, so far as permitted by law, be deemed to be fixtures and a part of the realty and security for the payment of Indebtedness and, as to any such property not deemed to be fixtures and a part of "Mortgaged Premises" (hereafter defined), this Mortgage shall be and is a security agreement for the purpose of establishing a security interest in said property, pursuant to the Uniform Commercial Code of the State of Illinois, and additional security for the payment of Indebtedness and the performance of all other obligations of Mortgagor herein.

D. All rents, issues, proceeds and profits accruing and to accrue from Mortgaged Premises and all right, title and interest of Mortgagor in and to any and all leases approved by Mortgagee now or hereafter on or affecting Mortgaged Premises, whether written or oral, and all other leases and agreements for the use thereof ("Leases"), together with all security therefore and all monies payable thereunder, subject, however, to the conditional permission of Mortgagee given to Mortgagor to collect, receive, take, use and enjoy the rentals, issues, proceeds and profits to be paid pursuant thereto.

E. All:

(1) proceeds heretofore or hereafter paid to Mortgagor and all subsequent owners of Mortgaged Premises ("Proceeds") by reason of loss or damage by fire and such other hazards, casualties and contingencies ("Casualty") insured pursuant to "Insurance Policies" (hereafter defined); and

(2) all awards and other compensation heretofore or hereafter to be made to Mortgagor and all subsequent owners of Mortgaged Premises ("Awards") for any taking by condemnation or eminent domain proceedings, either permanent or temporary ("Condemnation"), of all or any part of Mortgaged Premises or any easement or appurtenance thereof, including consequential damage and change in grade of streets;

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which Proceeds or Awards are hereby assigned to Mortgagee. Mortgagor hereby appoints Mortgagee its attorney-in-fact, coupled with an interest, and authorizes, directs and empowers such attorney-in-fact, at its option, on behalf of Mortgagor its personal representatives, successors and assigns, to adjust or compromise the claim for Proceeds or Awards and to collect and receive the proceeds thereof, to give proper receipts and acquittances therefore and, after deducting expenses of collection, to apply the net proceeds received therefrom as a credit upon any part, as may be selected by Mortgagee, of Indebtedness, notwithstanding that the amount owing thereon may not then be due and payable or that the same is otherwise adequately secured.

For convenience, Land, Improvements and Other Interests are herein collectively referred to as "Mortgaged Premises".

TO HAVE AND TO HOLD Mortgaged Premises unto Mortgagee, its successors and assigns, forever, for the uses and purposes herein set forth together with all right to possession of the Mortgaged Premises after the occurrence of a Default (as hereinafter defined); the Mortgagor hereby **RELEASING AND WAIVING** all rights under and by virtue of the homestead exemption laws of the State of Illinois.

MORTGAGOR COVENANTS that it is lawfully seized of the Mortgaged Premises, that the same is unencumbered, 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 Mortgaged Premises and the quiet and peaceful possession of the same against the lawful claims of all persons whomsoever.

PROVIDED, HOWEVER, that if and when Mortgagor shall pay in full when due Indebtedness and shall duly and timely perform all of the terms, covenants, conditions and agreements contained herein and in the Note and Other Loan Documents provided to be performed and observed by the Mortgagor, then this Mortgage, Note, and Other Loan Documents, shall be released, at the sole cost and expense of Mortgagor, otherwise the same shall be and remain in full force and effect.

MORTGAGOR HEREBY FURTHER COVENANTS AND AGREES AS FOLLOWS:

1. **PRIORITY OF LIEN AND SUBORDINATE ENCUMBRANCES.** This Mortgage is and shall remain a valid first mortgage lien on the Mortgaged Premises until the payment in full of Indebtedness. Without the specific prior written consent of Mortgagee, Mortgagor shall not create or suffer or permit any mortgage, lien, charge or encumbrance to attach to or be filed against the Mortgaged Premises, whether such lien or encumbrance is inferior or superior to the lien of this Mortgage, including mechanic's liens, materialmen's liens, or other claims for lien made by parties claiming to have provided labor or materials with respect to the Mortgaged Premises.

2. **SUBROGATION:** To the extent Mortgagee, following the date hereof, pays any sum due pursuant to any provision of law, instrument or document establishing any lien prior or superior to the lien of this Mortgage, Mortgagee shall have and be entitled to a lien on Mortgaged Premises equal in parity to that discharged and Mortgagee shall be subrogated to, receive and

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enjoy all rights and liens possessed, held or enjoyed by the holder of such lien, which shall remain in existence and benefit Mortgagee to secure the payment of Indebtedness. Mortgagee shall be subrogated, notwithstanding its release of record, to mortgages, trust deeds, superior titles, vendors' liens, and other liens, charges, encumbrances, rights and equities on Mortgage Premises to the extent that any obligation thereunder is paid or discharged from the principal sum secured hereby.

3. PROMPT PAYMENT OF INDEBTEDNESS AND PERFORMANCE OF COVENANTS: Mortgagor shall promptly pay Indebtedness at the times and in the manner provided in Note and this Mortgage and duly and punctually perform and observe all of the terms, provisions, conditions, covenants and agreements on Mortgagor's part to be performed or observed as provided herein, in the Note and in Other Loan Documents. Mortgagor shall have the privilege of making prepayments on the principal of the Note (in addition to the required payments thereunder) only at the times, and upon payment of the prepayment premium, in accordance with the terms and conditions set forth in the Note, but not otherwise.

4. TAX AND INSURANCE DEPOSITS AND APPLICATION: In addition to the payment of Indebtedness, Mortgagor shall pay to Mortgagee, concurrently with the payments required pursuant to Note, an amount equal to the real estate taxes and special assessments, if any, next due on Mortgaged Premises, plus the premiums that will next become due and payable on Insurance Policies, as reasonably estimated by Mortgagee, less all sums already paid therefore, divided by the number of months to elapse before one month prior to the date when such taxes, assessments and premiums will become delinquent. Funds held by Mortgagee, or its duly authorized agent under the provisions of this paragraph, will be held in trust to pay real estate taxes, assessments and insurance premiums when the same become due and payable, however Mortgagee shall not be required to keep such funds separate and apart from any other funds held by Mortgagee, or its duly authorized agent, and no interest will accrue or be allowed to Mortgagor on such funds.

In the event the amount deposited with Mortgagee as required in the paragraph immediately preceding this paragraph shall not be sufficient to pay said real estate taxes, assessments or insurance premiums in full when due, Mortgagor shall deposit with Mortgagee or its duly authorized agent, an amount sufficient to pay the same. Default in making any of the said payments required for the purpose of providing funds for the payment of taxes, assessments and insurance premiums as aforesaid shall at the option of the Mortgagee mature the entire Indebtedness secured hereby.

In the event the amount deposited with Mortgagee as hereinabove required exceeds the amount required to pay such real estate taxes, assessments and insurance premiums, the surplus shall, provided no Default shall exist, at the option of Mortgagee, either be refunded to Mortgagor, or be applied against future real estate taxes, special assessments and insurance premiums, and the amount of estimated monthly payments due from Mortgagor shall be adjusted to reflect such application.

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At such time as Indebtedness is to be paid in full, whether by reason of maturity or Mortgagor's election to prepay Indebtedness as provided in Note, the Mortgagee shall apply, as a credit against Indebtedness, all funds held by it pursuant to this Paragraph 4.

If as a result of a Default, Mortgaged Premises are sold, foreclosed upon or Mortgagee acquires Mortgaged Premises otherwise after such Default, it shall apply, at the time of commencement of such proceedings, or at the time Mortgaged Premises are otherwise acquired, the balance then remaining of the funds accumulated under the provisions of this paragraph, as a credit against the amount of said principal sum then remaining unpaid under Note.

5. PAYMENT OF TAXES AND OTHER IMPOSITIONS: Subject to the provisions of Paragraph 13 hereof, Mortgagor shall promptly pay, when due and payable, all ground rents, if any, and all taxes and assessments (general and special), water and sewer charges, public impositions, levies, dues and other charges, of whatever nature (collectively "Impositions"), which are now or shall hereafter be levied or assessed or which may otherwise be or become a lien upon or against Mortgaged Premises, or any part thereof, other than matters expressly permitted herein. Mortgagor shall cause Mortgaged Premises to be separately taxed for real estate tax purposes.

6. INSURANCE POLICIES, SETTLEMENT OF CLAIMS, AND APPLICATION OF PROCEEDS:

Insurance Policies: Until Indebtedness is fully paid, Mortgagor shall keep Mortgaged Premises continuously insured against Casualty in such amounts and with such limits, as Mortgagee may from time to time require, and in any event maintain the following described policies of insurance (the "Insurance Policies"):

a). All-risk casualty insurance, provided by an insurance carrier or carriers rated A Class VIII or better by A.M. Best's, for an amount equal to (i) the full replacement cost of the Improvements, written on a replacement cost basis or with a replacement cost endorsement, or (ii) insurance in the amount of the principal amount of the Note, whichever is greater, and shall have attached thereto a Standard Non-Contributory Mortgage clause containing a thirty (30) day cancellation provision, and an Agreed Amount Endorsement (at the time of the execution and delivery hereof) a Contingent Liability From Operation of Building Laws Endorsement, a Demolition Cost Endorsement, an Increased Cost of Construction Endorsement and such other endorsements as Mortgagee may require, provided that, if at any time Mortgagee disagrees with Mortgagor's estimate of replacement cost, Mortgagor shall provide at Mortgagor's expense, an insurance appraisal, prepared by an insurance appraiser approved in advance of the appraisal work by Mortgagee, establishing the full replacement cost in a manner satisfactory to such insurance carrier;

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b). Comprehensive public liability and property damage insurance in an amount not less than Two Million Dollars (\$2,000,000.00) combined single limit on an each and every occurrence basis showing Mortgagee as an additional insured;

c). Rental insurance in an amount at least equal to the total of (i) rent payable by tenants of the Mortgaged Premises for six (6) months; (ii) the amount of annual Impositions on the Mortgaged Premises; and (iii) the aggregate of premiums due or to become due on Insurance Policies for the then current year, all of which rental insurance shall be payable over a period not in excess of six (6) months following the event causing such insurance to be payable;

d). Flood insurance, sprinkler insurance, and boiler and machinery insurance, whenever Mortgagee notifies Mortgagor in writing that in Mortgagee's reasonable opinion such insurance is necessary and available, and specifying the amounts and any other reasonable specifications for such coverage; and

e). Such other insurance as may be deemed reasonably necessary by Mortgagee from time to time.

All Insurance Policies shall be in form, companies and amounts reasonably satisfactory to Mortgagee. All Insurance Policies insuring against Casualty, rent loss and other appropriate policies shall at all times, prior to and during foreclosure and at any time prior to confirmation of a foreclosure sale, include standard non-contributory mortgagee clauses in favor of and with loss payable to Mortgagee, as well as standard waiver of subrogation endorsements; shall name Mortgagee as an additional insured and loss payee; shall provide that the coverage shall not be terminated or materially modified without thirty (30) days prior advance written notice to Mortgagee; and shall provide that no claims shall be paid thereunder without ten (10) days' advance written notice to Mortgagee. Mortgagor will deliver all Insurance Policies, premiums prepaid, to Mortgagee; and, in case of Insurance Policies about to expire, Mortgagor shall deliver renewal or replacement policies not less than thirty (30) days prior to the expiration date thereof. All Insurance Policies shall continue to be held by Mortgagee until the Indebtedness shall have been paid in full. Mortgagor shall pay to Mortgagee a penalty of One Thousand Dollars (\$1,000.00) each time the renewal or replacement Insurance Policies are not delivered to Mortgagee together with evidence of payment of premiums within ten (10) days after notice from Mortgagee that such items are delinquent.

Mortgagor shall not purchase separate insurance, concurrent in form or contributing in the event of loss with Insurance Policies unless Mortgagee is included thereon pursuant to a standard mortgagee clause acceptable to Mortgagee, and in the event Mortgagor does purchase such separate insurance, Mortgagor shall immediately notify Mortgagee thereof and promptly deliver to Mortgagee such policy or policies.

In case of sale pursuant to foreclosure of this Mortgage or other transfer of title to the Mortgaged Premises and extinguishment of the Indebtedness, complete title to all Insurance

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Policies and any other insurance policies held by Mortgagee with respect to the Mortgaged Premises, and to all prepaid or unearned premiums thereon shall pass to and vest in the purchaser or grantee. Mortgagee shall not by reason of accepting, rejecting, approving or obtaining insurance incur any liability for payment of losses.

Settlement of Claims: Mortgagor will give Mortgagee prompt notice of any Casualty causing loss or damage to the Mortgaged Premises. In case of loss or damage covered by any of the Insurance Policies, Mortgagee (or, after entry of decree of foreclosure, the purchaser at the foreclosure sale or decree creditor, as the case may be) may at its option either (a) settle and adjust any claim under such Insurance Policy without the consent of Mortgagor, or (b) allow Mortgagor to settle and adjust such claim with the consent of Mortgagee, provided that in either case, Mortgagee shall, and is hereby authorized to collect and receipt for any Proceeds; and the expenses incurred by Mortgagee in the adjustment and collection of Proceeds shall be so much additional Indebtedness secured hereby, and shall be reimbursed to Mortgagee upon demand or may be deducted by Mortgagee from Proceeds prior to any other application thereof. Each insurance company which has issued an Insurance Policy is hereby authorized and directed to make payment for all losses covered by such Insurance Policy to Mortgagee alone, and not to Mortgagee and Mortgagor jointly.

Application of Proceeds: In the event no Default has occurred, nor has any event occurred which with the giving of notice (if required) and/or passage of time would constitute a Default, the existing Lease of the Property remains in full force and effect, and the casualty occurs on or before February 1, 2010, then the Mortgagee shall permit the Proceeds to be used by the Mortgagor to restore the Property. In all other instances the Proceeds may, at the option of the Mortgagee, either be applied in reduction of the Indebtedness, whether due or not, or be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring of building or improvements on Land. In the event Mortgagee elects to permit the use of such Proceeds to rebuild or restore the buildings and improvements on Land, the buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction, and Mortgagor shall be entitled to payment out of Proceeds, from time to time, upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractor's sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of work performed from time to time, and at all times the undisbursed balance of said Proceeds remaining in hands of Mortgagee shall be at least sufficient to pay for the cost of completion of such work free and clear of liens.

In the event Mortgagee applies Proceeds to the Indebtedness and Proceeds do not discharge Indebtedness in full, the balance of Indebtedness shall become immediately due and payable with interest thereon at the Default Rate (as defined in Note). In the event Mortgagee applies Proceeds to the unpaid principal of Indebtedness, such application and any additional funds required to pay Indebtedness in full shall be free of any prepayment premium.

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In the event Mortgagee elects to permit the use of Proceeds for rebuilding or restoring Mortgaged Premises, Mortgaged Premises shall be so rebuilt or restored so as to be as similar, as is reasonably possible, to the condition which existed prior to such Casualty. Proceeds shall be made available to Mortgagor, from time to time, upon the delivery to Mortgagee of satisfactory evidence of the estimated cost of completing such rebuilding or restoration, together with such architect's certificates, contractor's sworn statements, waivers of lien and other evidence of cost and payments as Mortgagee may reasonably require and approve. No payment made prior to final completion of such repair or restoration shall exceed ninety per cent (90%) of the value thereof, and at all times, the undisbursed balance of Proceeds shall be at least sufficient to pay for the cost of completion thereof, free and clear of liens. In the event Proceeds are insufficient to cover the cost of such rebuilding or restoring, Mortgagor shall pay such excess costs prior to any disbursement of Proceeds to it. Any surplus Proceeds, after the payment of all costs of rebuilding or restoring shall, at the option of Mortgagee, be applied on account of Indebtedness or paid to Mortgagor.

7. CONDEMNATION: In the event Mortgaged Premises, or any part thereof, is taken by Condemnation, Mortgagor is hereby authorized to settle and adjust any Awards with the consent of Mortgagee. Mortgagee is hereby empowered to collect and receive Awards. In the event no Default has occurred, nor has any event occurred which with the giving of notice (if required) and/or passage of time would constitute a Default, the existing Lease of the Property remains in full force and effect, and the condemnation occurs on or before February 1, 2010, then the Mortgagee shall permit the Awards to be used by the Mortgagor to restore the Mortgaged Premises. In all other instances the Awards may, at the option of the Mortgagee, either be applied in reduction of the Indebtedness, whether due or not, or be held by Mortgagee and used to reimburse Mortgagor for the cost of the rebuilding or restoring the Mortgaged Premises. In the event Mortgagee elects to permit the use of such Awards to rebuild or restore the Mortgaged Premises, the Mortgaged Premises shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such condemnation, and Mortgagor shall be entitled to payment out of Awards, from time to time, upon the Mortgagee being furnished with satisfactory evidence of the estimated cost of completion thereof and with such architect's certificates, waivers of lien, contractor's sworn statements and other evidence of cost and of payments as Mortgagee may reasonably require and approve. No payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of work performed from time to time, and at all times the undisbursed balance of said Awards remaining in hands of Mortgagee shall be at least sufficient to pay for the cost of completion of such work free and clear of liens.

In the event Mortgagee applies Awards to the Indebtedness and Awards do not discharge Indebtedness in full, the balance of Indebtedness shall become immediately due and payable with interest thereon at the Default Rate. In the event Mortgagee applies Awards to the unpaid principal of Indebtedness, such application and any additional funds required to pay Indebtedness in full shall be free of any prepayment premium.

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8. CASUALTY OR CONDEMNATION AFTER FORECLOSURE: In the event of Casualty or Condemnation after foreclosure proceedings have been instituted, Proceeds or Awards, if not applied as specified in Paragraphs 6 and 7 above, shall be used to pay the amounts due in accordance with any decree of foreclosure which may be entered in any such proceedings and the balance, if any, shall either be paid to the owner of the equity redemption, if such owner shall be entitled to the same, or as the court may direct.

9. MORTGAGEE'S LIABILITY FOR COLLECTION OF PROCEEDS OR AWARDS: Mortgagee shall not be held liable for any failure to collect Proceeds or Awards, regardless of the cause of such failure.

10. USE, CARE OR WASTE: Mortgagor shall:

a). not abandon Mortgaged Premises or do or suffer anything to be done which would materially depreciate or materially impair the value thereof or the security of this Mortgage;

b). not remove or demolish any part of Improvements of a structural nature which would adversely affect the value of Mortgaged Premises;

c). not make nor permit or suffer any tenant to make any changes, additions or alterations to Mortgaged Premises of a structural nature which would adversely affect the value thereof, except as required by any applicable statute, law or ordinance of any governmental authority having jurisdiction over Mortgaged Premises and the intended use thereof, or as otherwise permitted by the terms of the existing leases of the Mortgaged Premises, or as otherwise approved in writing by Mortgagee;

d). maintain, preserve and keep Mortgaged Premises in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear and tear, damage, obsolescence or destruction;

e). promptly restore and replace any Improvements or Other Interests which are destroyed or damaged; and

f). not commit or permit to exist any waste of Mortgaged Premises.

Mortgagor shall comply with and cause Mortgaged Premises, and the use and condition thereof, to comply with all statutes, ordinances, requirements, regulations, orders and decrees relating to Mortgagor or Mortgaged Premises, or the use thereof, by any federal, state, county or other governmental authority and with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, franchises and concessions (including, without limitation, those relating to land use and development, construction, access, water rights, noise and

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pollution) which are applicable to Mortgagor or have been granted for Mortgaged Premises, or the use thereof.

11. HAZARDOUS OR TOXIC SUBSTANCES: Mortgagor represents that to the best of its knowledge it is currently in compliance with, and shall continue to comply and cause tenants of the Mortgaged Premises, or any part thereof, to comply with any and all Environmental Laws, (hereinafter defined) and any other laws, regulations, or orders with respect to the discharge and removal of Hazardous Substances (hereinafter defined), and shall pay immediately when due, the costs of any removal of any Hazardous Substances and shall keep the Mortgaged Premises free of any lien imposed pursuant to Environmental Laws or any other laws, regulations or orders. In the event Mortgagor fails to do so, after notice to Mortgagor and the expiration of the earlier of (i) applicable cure periods hereunder; or (ii) the cure period permitted under applicable Environmental Laws or any other laws, regulations or orders with respect to Hazardous Substances, Mortgagee may either declare a Default under this Mortgage or cause the Mortgaged Premises to be freed from the Hazardous Substances with the cost of the removal added to the Indebtedness. Mortgagor further agrees to keep the Mortgaged Premises and the ground water of the Mortgaged Premises free of Hazardous Substances and not to permit any tenant or third party to use (except in the ordinary course of business and in compliance with Environmental Laws), generate, manufacture, store, release, threaten release, or dispose of any Hazardous Substances at the Mortgaged Premises or in the ground water of the Mortgaged Premises without the express written approval of Mortgagee, and any such use, generation, manufacture, storage, release or disposal will be in compliance with all applicable laws and regulations. Mortgagor shall give Mortgagee prompt written notice of any claim by any person, entity or governmental agency that a release or disposal of Hazardous Substances has occurred at the Mortgaged Premises. Mortgagor, through its professional engineers and at its sole cost and expense, shall promptly and thoroughly investigate suspected contamination of the Mortgaged Premises by Hazardous Substances. Mortgagee shall have the right at any time to conduct a detailed inspection of the Mortgaged Premises during reasonable business hours and with reasonable notice and Mortgagor shall cooperate in the conduct thereof. The Mortgagor shall pay the Mortgagee's standard fee for this inspection in the event the Mortgagee reasonably determines such inspection is necessary due to a change in the environmental condition of the Mortgaged Premises. After the occurrence of a Default, Mortgagor shall give Mortgagee and its agents and its employees reasonable access to the Mortgaged Premises to remove Hazardous Substances if legally required or if reasonably necessary to prevent the existence of dangerous conditions, and Mortgagor agrees to indemnify and hold Mortgagee free and harmless from and against all loss, costs, damage, expense (including attorney's fees and costs) Mortgagee may sustain by reason of the assertion by any party of any claim in connection with such Hazardous Substances. The foregoing indemnification shall survive the satisfaction, release or extinguishment of the lien of this Mortgage, including, without limitation, any extinguishment of the lien of this Mortgage by foreclosure or deed in lieu thereof.

Mortgagor agrees that it will not install, or permit to be installed in the Mortgaged Premises, friable asbestos or any other Hazardous Substance, and with respect to any such material currently present in the Mortgaged Premises, Mortgagor shall promptly either remove any Hazardous Substance which any Environmental Law or any other law, regulation or order require

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to be removed or otherwise comply with such Environmental Law, other law, regulation or order. If Mortgagor fails to so remove or otherwise comply, Mortgagee may declare a Default under this Mortgage and upon the expiration of applicable cure periods do whatever is necessary to eliminate the Hazardous Substances from the Mortgaged Premises or otherwise comply with applicable laws, regulations, or orders; and the costs thereof shall be added to the Indebtedness. In such event, Mortgagor shall give Mortgagee and its agents and employees reasonable access to the Mortgaged Premises to remove said asbestos or other Hazardous Substances. Mortgagor shall defend, indemnify, and save Mortgagee harmless from all damages, costs and expenses (including foreseeable consequential damages) asserted or proven against Mortgagee by any party, as a result of the presence of such Hazardous Substances and any removal or compliance with applicable Environmental Laws. The foregoing indemnification shall survive the satisfaction, release or extinguishment of the lien of this Mortgage, including, without limitation, any extinguishment of the lien of this Mortgage by foreclosure or deed in lieu thereof.

Mortgagor shall send to Mortgagee, within five (5) days of any receipt thereof, any citation, notice of violation, or other notice of potential liability relating to the Mortgaged Premises from any governmental or quasi-governmental authority regarding any Environmental Law or Hazardous Substance.

The term "Environmental Law(s)" shall mean and include, any federal, state or local law, statute, regulation or ordinance pertaining to health, industrial hygiene or the environmental or ecological conditions on, under or about the Mortgaged Premises, including without limitation each of the following: the Comprehensive Environmental Response, Compensation and Recovery Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901 et seq.; Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601 et seq.; the Clean Air Act, as amended, 42 U.S.C. Section 1857, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq.; the Federal Hazardous Materials Transportation Act, 49 U.S.C. Section 1801 et seq.; the Illinois Environmental Protection Act, as amended, 415 ILCS 5/1 et seq.; the Illinois Responsible Property Transfer Act of 1988, as amended, 765 ILCS 90/1 et seq.; and the rules, regulations and ordinances of the U.S. Environmental Protection Agency and of all other federal, state and local agencies, boards, commissions, bodies and officers having jurisdiction over the Mortgaged Premises and Improvements or the use or operation thereof.

The term "Hazardous Substance(s)" shall mean and include, without limitation:

- a). Those substances included within the definitions of "hazardous substances", "hazardous materials", "toxic substance" or "solid waste" in any Environmental Law.
- b). Those substances listed in the U.S. Department of Transportation Table or amendments thereto (49 CFR 172.101) or by the U.S. Environmental Protection Agency (or any successor agency) as hazardous substances (40 CFR Part 302 and any amendments thereto);

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c). Those other substances, materials and wastes which are or become regulated under any applicable federal, state or local law, regulation or ordinance or by any federal, state or local governmental agency, board, commission or other governmental body, or which are or become classified as hazardous or toxic by any such law, regulation or ordinance; and

d). Any material, waste or substance which is any of the following: (A) asbestos; (B) polychlorinated biphenyl; (C) designated or listed as a "hazardous substance" pursuant to Sections 307 or 311 of the Clean Water Act (33 U.S.C. Section 1251 et seq.); (D) explosive; or (E) radioactive.

Mortgagor hereby covenants and agrees to comply with any and all Federal, State or Local legislation, rules and regulations relating to environmental protection including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986, and such other legislation, rules and regulations as are in, or may come into, effect and apply to the Mortgagor, the Mortgagee, the transactions contemplated hereby or the collateral or any occupancy users of Mortgaged Premises, whether as lessees, tenants, licensees, or otherwise. The Mortgagor shall indemnify and hold Mortgagee harmless against any and all claims, costs or expenses relating to such environmental protection provisions, subject to the exculpatory or non-recourse provisions contained herein, or contained in the Note or Other Loan Documents.

12. MORTGAGEE'S PERFORMANCE OF MORTGAGOR'S OBLIGATIONS: In the event of a default by Mortgagor in:

a). the prompt discharge of any liens or encumbrances within thirty (30) days after the filing of such lien or encumbrance, unless it is incapable of being discharged within thirty (30) days, then Mortgagor shall have a reasonable time to cure, not to exceed ninety (90) days, so long as Mortgagor is proceeding to cure with due diligence;

b). defending the title to Mortgaged Premises;

c). the payment of any Impositions;

d). diligently and continuously pursuing the rebuilding or restoration of Mortgaged Premises in the event of loss by Casualty or Condemnation;

e). the procurement and maintenance of Insurance Policies;

f). the proper maintenance and preservation of Mortgaged Premises, including, but not limited to, the maintenance of the Mortgaged Premises free from all Hazardous Substances as described in Paragraph 11 herein;

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and such default is not cured or otherwise secured against, to the satisfaction of Mortgagee, Mortgagee may, at its election and without further demand or notice, pay and discharge such lien or encumbrance, defend the title to Mortgaged Premises, pay such Impositions (plus any interest and penalties thereon), procure Insurance Policies and pay the premiums therefore, complete such rebuilding or restoration and maintain and preserve Mortgaged Premises, in which event, all expenditures therefore, including reasonable attorneys' fees incurred by Mortgagee shall forthwith become due and payable to Mortgagee, together with interest thereon at Default Rate, which shall be added to and become a part of Indebtedness and shall be secured by the lien of this Mortgage, all without prejudice to the right of Mortgagee to declare Indebtedness immediately due and payable by reason of Mortgagor's Default and breach of the terms, covenants, conditions and agreements herein contained. Mortgagee shall have the right of determination as to the validity of any lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises and the payment thereof by Mortgagee shall establish its right to recover the amount so paid, with interest at Default Rate, subject to the provisions of Paragraph 13 following.

13. CONTEST OF LIENS OR ENCUMBRANCES: In the event Mortgagor desires to contest the validity of a lien, encumbrance or Imposition attributable to or assessed against Mortgaged Premises, it will:

- a). on or before thirty (30) days prior to the due date thereof, notify Mortgagee in writing that it intends to so contest the same, or cause the same to be contested;
- b). on or before the due date thereof, on demand, deposit with Mortgagee or a depository acceptable to Mortgagee (or in the case of Impositions pay to the taxing body the amount of such Impositions), insurance over any such lien, encumbrance or Imposition or other bond or security (in form and content reasonably satisfactory to Mortgagee) which is sufficient in Mortgagee's reasonable judgment for the payment of the full amount of such lien, encumbrance or Imposition, or any balance thereof then remaining unpaid (or provide to Mortgagee such other indemnity as may be reasonably acceptable to it); and
- c). from time to time deposit additional security or indemnity, so that, at all times adequate security or indemnity will be available for the payment of the full amount of the lien, encumbrance or Imposition remaining unpaid, together with all interest, penalties, costs and charges accrued or accumulated thereon.

If the foregoing deposits are made and Mortgagor continues, in good faith, to contest the validity of such lien, encumbrance or Imposition, by appropriate legal proceedings which shall operate to prevent the collection thereof and the sale of the Mortgaged Premises or any part thereof, to satisfy the same, Mortgagor shall be under no obligation to pay such lien, encumbrance or Imposition until such time as the same have been decreed, by a final non-appealable court order, to be a valid lien on Mortgaged Premises. Mortgagee shall have full power and authority to reduce any such security or indemnity to cash and apply the amount so received to payment of any unpaid

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lien, encumbrance or Imposition after the same have been decreed by court order to be a valid lien on Mortgaged Premises to prevent the sale or forfeiture of Mortgaged Premises for non-payment thereof, without liability on said Mortgagee for failure to apply the security or indemnity so deposited, unless Mortgagor, in writing, requests the application thereof to the payment of the particular lien, encumbrance or Imposition for which such deposit was made. Any surplus deposit retained by Mortgagee after the payment of the lien, encumbrance or Imposition for which the same was made, shall be repaid to the Mortgagor unless a Default shall exist, in which event, such surplus shall be applied by Mortgagee on account of Indebtedness.

14. WAIVERS: To the full extent permitted by law, Mortgagor:

a) shall not, at any time, insist upon or plead or, in any manner whatsoever, claim, or take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" (now or at any time hereafter in force) nor claim, take or insist upon any benefit or advantage of or from any law (now or hereafter in force) providing for the valuation or appraisal of Mortgaged Premises, or any part thereof, prior to any sale or sales thereof to be made pursuant to any provision herein contained or to any decree, judgment or order of any court of competent jurisdiction or after such sale or sales, claim or exercise any rights pursuant to any statute now or hereafter in force to redeem Mortgaged Premises so sold, or any part thereof, or relating to the marshalling thereof, upon foreclosure sale or other enforcement hereof;

b) hereby expressly waives any and all rights of redemption from sale under any order or decree of foreclosure of this Mortgage, on its own behalf, and on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Mortgagor and on behalf of each and every person acquiring any interest in or title to the Mortgaged Premises subsequent to the date hereof, it being the intent of Mortgagor hereby that any and all such rights of redemption of Mortgagor and all other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law; and

c) agrees that it will not, by invoking or utilizing any applicable law or laws or otherwise hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Mortgagee but will suffer and permit the exercise of every such right, power and remedy as though no such law or laws has, have been or will have been made or enacted.

15. COMPLIANCE WITH ILLINOIS MORTGAGE FORECLOSURE LAW: In the event that any provision in this Mortgage shall be inconsistent with any provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 et seq. (herein called the "Act") the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

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

Without limiting the generality of the foregoing, all reasonable expenses incurred by Mortgagee to the extent reimbursable under the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Paragraph 20 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

16. PROHIBITED TRANSFERS:

Prohibited Transfers: Mortgagor shall not, without the prior written consent of Mortgagee, which may be given or withheld in Mortgagee's sole and absolute discretion, create, effect, contract for, consent to or permit any Prohibited Transfer, either voluntarily or by operation of law.

Any conveyance, sale, lease (other than leases in the ordinary course of business), assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation (or agreement to any of the foregoing) of any of the following properties, rights or Interests which occurs, is granted, accomplished, attempted or effectuated, superior or inferior to the lien of the Mortgage, shall constitute a "Prohibited Transfer":

- a). the Mortgaged Premises, or any part thereof or interest therein, excepting only sales or other dispositions of personal property located on the Mortgaged Premises which sales or other dispositions are permitted under the terms hereof; or
- b). fifty percent (50%) or more of the ownership interest of any corporation, partnership, limited liability company or other entity which is a Mortgagor (on a cumulative basis);

in each case whether any such conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest, encumbrance or alienation is effected directly, indirectly, voluntarily or involuntarily, by Mortgagor, or by any third party, by operation of law or otherwise; provided, however, that the foregoing provisions of this paragraph shall not apply (i) to this Mortgage or any liens expressly permitted in this Mortgage; or (ii) to the lien of current taxes and assessments not in default. If Mortgagee consents to an exception to this Paragraph 16, Mortgagor shall pay to Mortgagee a fee equal to one per cent (1%) of the then Principal Balance (as defined in the Note) and Mortgagor shall reimburse Mortgagee for all reasonable costs, including legal fees, incurred in negotiating and documenting any such consent.

Notwithstanding the above, transfers of the membership interests between existing members of the Mortgagor or transfers among family members of the existing members of the Mortgagor as of the date of the Note, or trusts for their benefit, for estate planning purposes or by

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reason of testate succession will be permitted without the prior written consent of the Mortgagee and without payment of any fee or change in the terms of the Note, this Mortgage or the Other Loan Documents, provided that Randy D. Podolsky maintains management control of the Mortgagor, and provided that Randy D. Podolsky shall continue to remain personally liable to the extent of any personal liability he may have under the Loan Documents.

In determining whether or not to make the loan secured hereby, Mortgagee examined the creditworthiness, the background and the experience of the Mortgagor, found them acceptable and relied and continues to rely upon same as the means of maintaining the value of the Mortgaged Premises and the repayment of the Note. The Mortgagor is well-experienced in borrowing money and owning and operating property such as the Mortgaged Premises and is ably represented by an attorney at law in the negotiation and documentation of the Indebtedness, and bargained at arm's length and without duress of any kind for all of the terms and conditions of the loan, including this provision. Mortgagor further recognizes that any secondary or junior financing placed upon the Mortgaged Premises (a) may divert funds which would otherwise be used to pay the Note secured hereby; (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security; (c) would detract from the value of the Mortgaged Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) would impair Mortgagee's right to accept a deed in lieu of foreclosure, as a foreclosure by Mortgagee would be necessary to clear the title to the Mortgaged Premises.

In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment of the Indebtedness and the value of the Mortgaged Premises; (ii) giving the Mortgagee the full benefit of its bargain with Mortgagor; (iii) allowing the Mortgagee to raise the interest rate due under Note and collecting assumption fees; and (iv) keeping the Mortgaged Premises free of subordinate financing liens, Mortgagor agrees that if this paragraph is deemed a restraint on alienation, it is a reasonable one.

17. DEFAULT: If one or more of the following events (herein called "Defaults") shall occur:

a). If the Mortgagor shall fail to make any payment of the whole or any part of any of the several installments within five (5) days after the date when due under the Note, this Mortgage or Other Loan Documents; or

b). If any default be made in the performance of any of the terms, agreements, covenants or conditions contained in this Mortgage or in the performance of any of the terms, agreements, covenants or conditions contained in Other Loan Documents, in each case, after the expiration of any period of grace expressly allowed for the cure of such default in such other document or instrument, or if no express cure period is provided, then in each case, if such default shall continue for thirty (30) days after written notice thereof by Mortgagee to Mortgagor; provided that, in the event of any such Default which cannot be

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reasonably cured within such thirty (30) day period, there shall be no Default hereunder if, within such thirty (30) day period, Mortgagor shall commence such cure and diligently pursue the same until completion, but in no event shall such period exceed ninety (90) days after the expiration of the initial thirty (30) day period;

c). The occurrence of a Prohibited Transfer;

d). If any of the information contained in any documentation provided to Mortgagee by Mortgagor of any of its agents or shareholders in conjunction with the Indebtedness shall not be true, accurate and complete in all material respects;

e). If (and for the purpose of this Subparagraph 17 (e) only, the term "Mortgagor" shall mean and include not only Mortgagor, but also Randy D. Podolsky, and if title is conveyed in the future with the consent of Mortgagee, any future beneficiary of a trust, the trustee of which is the Mortgagor, any general partner in a partnership Mortgagor or in a partnership which is a beneficiary of a trustee Mortgagor, any owner of more than ten percent (10%) of the capital stock in a corporate Mortgagor or corporation which is the beneficiary of a trust, the trustee of which is the Mortgagor, and each person who, as guarantor, co-maker or otherwise, shall be or become liable for or obligated upon all or any part of the Indebtedness or any of the covenants or agreements contained herein):

i). Mortgagor shall file a voluntary petition in bankruptcy or for arrangement, reorganization or other relief under the Federal Bankruptcy Act or any similar law, state or federal, now or hereafter in effect;

ii). Mortgagor shall file a pleading in any proceeding admitting insolvency, bankruptcy, or inability to pay its debts as they mature;

iii). Within ninety (90) days after the filing against Mortgagor of any involuntary proceeding under the Federal Bankruptcy Act or similar law, state or federal, now or hereafter in effect, such proceedings shall not have been vacated;

iv). All or a substantial part of Mortgagor's assets are attached, seized, subjected to a writ or distress warrant, or are levied upon, unless such attachment, seizure, writ, warrant or levy is vacated within ninety (90) days;

v). Mortgagor shall be adjudicated a bankrupt;

vi). Mortgagor shall make an assignment for the benefit of creditors or shall admit in writing its inability to pay its debts generally as

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they become due or shall consent to the appointment of a receiver or trustee or liquidator of all or the major part of its property, or the Mortgaged Premises; or

vii). Any order appointing a receiver, trustee or liquidator of Mortgagor or all or a major part of Mortgagor's property or the Mortgaged Premises is not vacated within ninety (90) days following the entry thereof;

then Mortgagee is hereby authorized and empowered, at its option and without affecting the lien hereby created or the priority of said lien or any other right of Mortgagee hereunder, to declare, without further notice, all Indebtedness to be immediately due and payable with interest thereon at the Default Rate, whether or not such Default be thereafter remedied by Mortgagor, and Mortgagee may immediately proceed to foreclose this Mortgage and to exercise any right, power or remedy provided by this Mortgage, the Note or any Other Loan Document, or by law or in equity

18. REMEDIES NOT EXCLUSIVE: No remedy or right of Mortgagee hereunder or pursuant to Note or Other Loan Documents or otherwise available under applicable law, shall be exclusive of any other remedy or right but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing at law or in equity pursuant thereto. No delay in the exercise of or omission to exercise any remedy or right accruing upon occurrence of a Default shall impair any such remedy or right or be construed to be a waiver of any such default or an acquiescence therein nor shall the same effect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor and all rights, powers and remedies of Mortgagee expressed herein shall be in addition to and not in limitation of those provided by law and in this Mortgage and Other Loan Documents.

19. REMEDIES: Upon the occurrence of a Default, Mortgagee shall have the right to immediately foreclose the lien of this Mortgage in accordance with the Act. Upon the filing of any complaint by reason thereof, the court in which the same is filed may:

- a). upon application of Mortgagee or at any time thereafter;
- b). either before or after foreclosure sale and without notice to Mortgagor or to any party claiming under Mortgagor;
- c). without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of Indebtedness, or any part thereof;

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d). without regard to the then value of Mortgaged Premises or whether the same shall then be occupied in whole or in part, as a homestead by the owner of the equity of redemption; and

e). without requiring any bond from the complainant in such proceedings;

appoint a receiver for the benefit of Mortgagee, with power to take possession, charge and control of Mortgaged Premises, to lease the same, keep Mortgaged Premises insured and in good repair and collect all rentals during the pendency of such foreclosure suit and, in the event of foreclosure sale and a deficiency in the proceeds received therefrom, during any period of redemption. The court may, from time to time, authorize such receiver to apply the net amounts remaining in its possession, after deducting reasonable compensation for itself and its counsel to be allowed by the court, in payment (in whole or in part) of any part or all of Indebtedness, including, without limitation, the following, in such order of application as Mortgagee may elect:

- i). to the payment of Indebtedness;
- ii). to any amount due upon any decree entered in any suit foreclosing this Mortgage;
- iii). to costs and expenses of foreclosure and litigation upon Mortgaged Premises;
- iv). to the payment of premiums due on Insurance Policies, repairs, Impositions (and any interest, penalties and costs thereon) or any other lien or charge upon Mortgaged Premises which may be or become superior to the lien of this Mortgage or of any decree foreclosing the same; and
- v). to the payment of all sums advanced by Mortgagee to cure or attempt to cure any Default by Mortgagor in the performance of any obligation or condition contained herein, in Note, Other Loan Documents or otherwise, to protect the security provided herein and therein, with interest on such advances at Default Rate.

Any overplus of the proceeds of foreclosure sale shall then be paid to Mortgagor. This Mortgage may be foreclosed at any time against all or successively against any part or parts of Mortgaged Premises, as Mortgagee may elect and this Mortgage and the right of foreclosure hereunder shall not be impaired or exhausted by one or any foreclosure or by one or any sale and may be foreclosed successively and in parts until all of Mortgaged Premises shall have been foreclosed and sold. In the event of any foreclosure of Mortgaged Premises (or commencement of or preparation for the same) in any court, all expenses of every kind paid or incurred by Mortgagee for the enforcement, protection or collection of this security, including reasonable costs,

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attorneys' fees, stenographers' fees, costs of advertising, title charges and other reasonable costs and expenses shall be paid by Mortgagor.

20. POSSESSORY RIGHTS OF MORTGAGEE: Upon the occurrence of a Default, and expiration of any applicable cure period, whether before or after the institution of legal proceedings to foreclose the lien of this Mortgage or any sale thereunder, Mortgagee shall be entitled to request that a receiver be appointed as set forth in 735 ILCS 5/15-1705 and in addition thereto, in its sole discretion to the extent permitted by law, perform any of the following:

- a). enter and take actual possession of Mortgaged Premises, Leases and the rents payable thereto, personally or by its agents or attorneys and excluding Mortgagor therefrom;
- b). with process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;
- c). as attorney-in-fact or agent of Mortgagor, or in its own name as Mortgagee and pursuant to the powers herein granted, hold, operate, manage and control Mortgaged Premises and Leases and collect all rentals payable pursuant thereto and conduct the business, if any, thereof, either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as, in its discretion, may be deemed proper or necessary to enforce the terms and conditions of Leases and the rentals payable pursuant thereto (including actions for the recovery of rents, actions in forcible detainer and actions in distress of rent);
- d). cancel or terminate any Lease or sublease for any cause or for any reason which would entitle Mortgagor to cancel the same;
- e). elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- f). make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to Mortgaged Premises which, in Mortgagee's reasonable discretion, may seem appropriate;
- g). insure and re-insure Mortgaged Premises against all risks incidental to Mortgagee's possession, operation and management thereof; and
- h). perform such other acts in connection with the management and operation of Mortgaged Premises as Mortgagee, in its reasonable discretion, may deem proper;

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Mortgagor hereby granting full power and authority to Mortgagee to exercise each and every of the rights, privileges and powers contained herein at any and all times following the occurrence of a Default.

Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the rentals collected by it to the payment or on account of the following, in such order as it may determine:

i). operating expenses of Mortgaged Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and reasonable leasing commissions and other reasonable compensation and expenses in seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on Insurance Policies;

ii). Impositions, costs of repairs, decorating, renewals, replacements, alterations, additions or betterments and improvements of Mortgaged Premises, including the cost, from time to time, of installing, replacing or repairing Mortgaged Premises and of placing Mortgaged Premises in such condition as will, in the reasonable judgment of Mortgagee, make the same readily rentable; and

iii). Indebtedness, or any part thereof.

21. **OTHER REMEDIES:** Whenever any Default shall be existing, Mortgagee may exercise, from time to time, any rights and remedies available to it pursuant to applicable law. Mortgagor shall, promptly upon request by Mortgagee, assemble all goods, wares, merchandise, furniture, fixtures, equipment and supplies owned by it and situated on and used and useful in the operation of Mortgaged Premises ("Personal Property") and make the same available to Mortgagee at such place or places reasonably convenient for Mortgagee and Mortgagor, as Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagee of any part of Mortgaged Premises shall be deemed reasonably and properly given if mailed as herein provided at least twenty (20) days prior to such disposition. Without limiting the foregoing, whenever a Default shall exist, Mortgagee may, with respect to Personal Property, without further notice, advertisement, hearing or process of law of any kind:

a). notify any person obligated on Personal Property to perform, directly for Mortgagee, its obligations thereunder;

b). enforce collection of any part of Personal Property by suit or otherwise and surrender, release or exchange all or any part thereof or compromise, extend or renew, for any period (whether or not in excess of the original period), any obligations of any nature of any party with respect thereto;

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in the management, operation, upkeep, repair or control of Mortgaged Premises resulting in loss, injury or death to any tenants, licensee, employee or stranger upon Mortgaged Premises. No liability shall be enforced or asserted against Mortgagee in the exercise of the powers herein granted to it and Mortgagor expressly waives and releases any such liability. In the event Mortgagee incurs any such liability, loss or damage prior to the exercise of its rights hereunder pursuant hereto and to any Lease or in the defense of any claim or demand, Mortgagor agrees to reimburse Mortgagee, immediately upon demand, for the amount thereof, including costs, expenses and reasonable attorneys' fees, except in the event such liability, loss or damage is caused by the willful misconduct, bad faith or negligence of Mortgagee, its employees or agents.

23. CHANGE OF LAW: If, by the laws of the United States of America, or of any state or municipality having jurisdiction over Mortgagee, Mortgagor or the Mortgaged Premises, any tax is imposed or becomes due in respect of the issuance of the Note or the execution, delivery and/or recording of any of the Other Loan Documents, Mortgagor shall pay such tax in the manner required by such law. In the event that any law, statute, rule, regulation, order or court decree has the effect of deducting from the value of Mortgaged Premises, for the purpose of taxation, the amount of any lien, encumbrance or Imposition or imposing upon Mortgagee the payment of the whole or any part thereof or changing, in any way, the laws relating to the taxation of mortgages or debts secured by mortgages or the Mortgagee or Mortgagee's interest in Mortgaged Premises or the manner of collection of liens, encumbrances or Impositions, so as to affect this Mortgage, Indebtedness or Mortgagee, Mortgagor shall, in any such event, upon demand by Mortgagee, pay such liens, encumbrances or Impositions or reimburse Mortgagee therefor; PROVIDED, HOWEVER, that if, in the opinion of counsel for Mortgagee:

- a). it may be unlawful to require Mortgagor to make such payment or reimbursement; or
- b). the making of such payment may result in the payment of interest beyond the maximum amount permitted by law;

then, and in such event, Mortgagee may elect, by notice in writing given to Mortgagor, to declare Indebtedness, together with interest thereon, but free of any prepayment premium, to be and become due and payable within sixty (60) days from the giving of such notice. Notwithstanding the foregoing, it is understood and agreed that Mortgagor is not obligated to pay any portion of Mortgagee's federal or state income tax.

24. COMPLIANCE WITH AGREEMENTS: Mortgagor shall pay promptly and keep, observe, perform and comply with all covenants, terms and provisions of operating agreements, Leases, instruments and documents relating to Mortgaged Premises or evidencing or securing any indebtedness secured thereby and shall observe all covenants, conditions and restrictions affecting the same.

25. ASSIGNMENT OF LEASES AND RENTS: The Mortgagor, as additional security for the payment of the Indebtedness, has sold, transferred and assigned to the Mortgagee, its

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successors and assigns, all of its interest in a certain Lease or Leases demising all or a portion of the Mortgaged Premises, together with the rents secured thereby, said Lease or Leases being identified as follows:

<u>Lessee</u>	<u>Date of Lease</u>	<u>Lease Termination</u>
Sanofi-Synthelabo, Inc.		January 31, 2011

Mortgagor expressly covenants and agrees that if the Mortgagor, as Lessor under said Lease or Leases so assigned, fails to perform and fulfill any material term, covenant, condition or provision in said Lease, or Leases or any of them, on its part to be performed or fulfilled, at the times and in the manner in said Lease or Leases provided, or if the Mortgagor suffers or permits to occur any breach or default under the provisions of the Assignment of Rents and Leases of even date herewith given as additional security for the payment of the Indebtedness, or if the Mortgagor fails to fully protect, insure, preserve and cause continued performance or fulfillment of the material terms, covenants or provisions in said Lease or Leases required to be performed or fulfilled by the Lessee or any of the Lessees therein or if the Mortgagor without Mortgagee's prior agreement permits or approves a material modification of any of the Leases, an assignment by Lessee of the said Lease or Leases or a subletting of all or any part of the premises demised in the said Lease or Leases, then in any such event, at the option of the Mortgagee, and upon notice to the Mortgagor, such breach or default shall, after expiration of any applicable cure periods, if any, constitute a Default hereunder and all unpaid indebtedness shall, notwithstanding anything in said Note or in this Mortgage to the contrary, become due and payable as in case of other Defaults.

In the event the said Mortgagor, as the Lessor in said Lease or Leases, shall neglect or refuse to perform, observe and keep all of the material covenants, provisions and agreements contained in said Lease or Leases, the Mortgagee may perform and comply with any such lease covenants, agreements and provision, in which event all costs and expenses incurred by the Mortgagee in complying with such covenants, agreements and provisions, shall become a part of the Indebtedness secured by this Mortgage and recoverable as such in all respects.

In addition to the Leases assigned hereinabove, upon the written request of Mortgagee, Mortgagor will assign to Mortgagee, as additional security for Indebtedness, future leases entered into with respect to the Mortgaged Premises.

26. **SECURITY AGREEMENT:** This Mortgage shall be deemed a security agreement, as defined in the Illinois Uniform Commercial Code, and establishes a security interest, in favor of Mortgagee in and to all property owned by Mortgagor and situated on Mortgaged Premises, including all personal property, fixtures and goods affecting Mortgaged Premises, either referred to or described herein or in any way connected with the use or enjoyment thereof owned by Mortgagor.

27. **EXECUTION OF SEPARATE SECURITY AGREEMENT AND FINANCING STATEMENTS:** In addition to this Mortgage being deemed a Security Agreement as set forth in

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31. CARE: Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any part of Mortgaged Premises in its possession if it takes such action for that purpose, as Mortgagee requests in writing, but failure of Mortgagee to comply with any such request shall not, of itself, be deemed a failure to exercise reasonable care and no failure of Mortgagee to preserve or protect any rights with respect to Mortgaged Premises against prior parties or do any act with respect to Mortgaged Premises against prior parties or do any act with respect to the preservation thereof not so requested by Mortgagee shall be deemed a failure to exercise reasonable care in the custody or preservation of Mortgaged Premises.

30. RELEASE: Upon payment in full of Indebtedness, at the time and in the manner herein provided, this conveyance shall be null and void and an appropriate instrument of reconveyance or release shall promptly be made by Mortgagee to Mortgagee, at Mortgagee's expense.

In making any payment or securing any performance relating to any obligation of Mortgagee hereunder, Mortgagee, so long as it acts in good faith, shall have the sole discretion as to the legality, validity and amount of any lien, encumbrance or Imposition and of all other matters necessary to be determined in satisfaction thereof. No such action of Mortgagee shall be considered a waiver of any right accruing to it on account of the occurrence of any Default.

- a) collect rentals due and owing pursuant to Leases and prosecute the collection of Personal Property or the proceeds thereof;
- b) purchase, discharge, compromise or settle any Imposition, lien or any other lien, encumbrance, suit, proceeding, title or claim thereof; and
- c) redeem from any tax sale or forfeiture affecting Mortgaged Premises or contest any Imposition.

29. PAYMENT AND PERFORMANCE BY MORTGAGOR: In the event Mortgagee shall fail to pay or perform any of its obligations herein contained (including the payment of expenses of foreclosure and court costs), Mortgagee may, but need not, following the occurrence of a Default, make payment or perform (or cause to be paid or performed) any obligation of Mortgagee hereunder, in any form and manner deemed reasonably expedient by Mortgagee, as agent or attorney-in-fact of Mortgagee, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses for each matter for which it acts hereunder), with interest thereon at Default Rate, shall be and become a part of Indebtedness and shall be paid to Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, Mortgagee may, but need not:

Mortgagee shall pay to the Mortgagee a penalty of One Thousand and No/100 Dollars (\$1,000.00) each time any of the above referenced financial statements are not received by Mortgagee within ten (10) days after written notice from the Mortgagee that such items are delinquent.

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38. GOVERNING LAW: This Mortgage has been delivered in the State of Illinois and shall be construed in accordance with and governed by the laws of the State of Illinois. Whenever possible, each provision of this Mortgage shall be interpreted in such a manner as to be effective and valid pursuant to applicable law; however, if the same shall be prohibited by or invalid thereunder, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder thereof or the remaining provisions of this Mortgage.

37. TENDER OF PAYMENT AFTER DEFAULT: Upon default by Mortgagee and following the acceleration of the maturity of Indebtedness, a tender of payment of the amount necessary to satisfy the Indebtedness by Mortgagee or by anyone on behalf of Mortgagee, shall constitute an evasion of the prepayment terms of the Note and such payment shall be deemed a voluntary prepayment under the Note and include, to the extent permitted by law, an amount equal to the prepayment premium due under the Note.

36. BUSINESS LOAN: Mortgagee represents and agrees that the proceeds of the loan evidenced by Note and secured by this Mortgage will be used for business purposes and this Mortgage is exempt from limitations upon lawful interest, pursuant to the terms of Section 815 ILCS 20/4.

35. INDEMNIFICATION: Mortgagee shall indemnify Mortgagee from all losses, damages and expenses, including reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee may be made a party for the purpose of protecting the lien of this Mortgage.

34. INSPECTIONS: Mortgagee, by any authorized agent or employee and for the protection of its interest in Mortgaged Premises, is hereby authorized and empowered to enter in and upon Mortgaged Premises at any and all reasonable business times, and upon reasonable notice to Mortgagee, for the purpose of inspecting the same and ascertaining the condition thereof.

33. MECHANIC'S LIENS: Notwithstanding anything contained in this Mortgage to the contrary, the lien of any mechanic or materialman shall not be permitted to attach to or remain against Mortgaged Premises unless the same is insured or bonded over to Mortgagee's reasonable satisfaction within thirty (30) days after notice to Mortgagee.

b). Mortgagee shall have no obligation or liability by reason of or arising out of this Mortgage unless due to the willful act or gross negligence of Mortgagee, and shall not be required or obligated, in any manner, to perform or fulfill any of the obligations of Mortgagee pursuant hereto.

a). Mortgagee shall be and remain liable to perform all of the obligations assumed by it pursuant hereto; and

32. MORTGAGOR'S CONTINUING LIABILITY: This Mortgage is intended only as security for Indebtedness and anything herein contained to the contrary notwithstanding:

Any consent or approval required of and granted by Mortgagee pursuant hereto shall:

43. CONSENT OR APPROVAL: The consent by Mortgagee in any single instance shall not be deemed or construed to be Mortgagee's consent in any like matter arising at a subsequent date and the failure of Mortgagee to promptly exercise any right, power, remedy or consent provided herein or at law or in equity shall not constitute or be construed as a waiver of the same nor shall Mortgagee be estopped from exercising such right, power, remedy or consent at a later date.

42. CORRECTIVE DOCUMENTS: Mortgagor shall, at the request of Mortgagee, promptly correct any defect, error or omission which may be discovered in the contents of this Mortgage or in the execution or acknowledgment hereof or in any other instrument executed in connection herewith or in the execution or acknowledgment of such instrument and will execute and deliver any and all additional instruments as may be requested by Mortgagee to correct such defect, error or omission.

41. TIME IS OF THE ESSENCE: It is specifically agreed that time is of the essence of this Mortgage.

40. ADDITIONAL DOCUMENTS; POWER OF ATTORNEY: Mortgagor, from time to time, will execute, acknowledge and deliver to Mortgagee within fifteen (15) days after written request from Mortgagee, such security agreements, assignments, absolute, financing statements, affidavits, certificates and other documents, in form and substance reasonably satisfactory to Mortgagee, as Mortgagee may reasonably request in order to perfect, preserve, continue, extend or maintain the assignments herein contained, the lien and security interest under this Mortgage or Other Loan Documents, and the priority thereof, and in the event the Mortgagor fails to execute and deliver such documents to Mortgagee within fifteen (15) days after written request from Mortgagee, then Mortgagor hereby irrevocably appoints Mortgagee its attorney-in-fact to execute, acknowledge, deliver and if appropriate file and record such security agreements, assignments for security purposes, absolute, financing statements, affidavits, certificates and other documents. Mortgagor will pay to Mortgagee upon request therefore all reasonable costs and expenses incurred in connection with the preparation, execution, recording and filing of any such document.

39. MARSHALLING OF ASSETS: At any foreclosure sale, the Mortgaged Premises may, at Mortgagee's option, be offered for sale for one total price, and the proceeds of such sale accounted for in one account without distinction between the items of security or without assigning to them any proportion of such proceeds, Mortgagor hereby waiving the application of any doctrine of marshalling; and, in case Mortgagee, in the exercise of the power of sale herein given, elects to sell the Mortgaged Premises in parts or parcels, said sales may be held from time to time, and the power shall not be fully executed until all of the Mortgaged Premises not previously sold shall have been sold.

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46. **EXCULPATION:** This Mortgage is executed by Rosnor Building Associates, LLC, an Illinois limited liability company, and it is expressly understood and agreed that in the event of any Default under the terms of this Mortgage, or the Note secured hereby, or Other Loan

45. **BENEFIT:** All grants, conditions and provisions hereof shall apply, extend to and be binding upon Mortgagee and all persons claiming any interest in Mortgaged Premises by, through or under Mortgagee, and shall inure to the benefit of Mortgagee, its successors and assigns.

David T. Brown, Esq.
Much, Shelist, Freed, Dennenberg,
Ament & Rubenstein, P.C.
200 North LaSalle Street
Chicago, Illinois 60601

With copies to:

Rosnor Building Associates
302 Saunders Road
Suite 300
Riverwoods, Illinois 60015
Attn: Mr. Randy T. Poljasky

If to Mortgagee:

MTL Insurance Company
1200 Jorie Boulevard
Oak Brook, Illinois 60522
Attn: Ms. Diane E. Hundseder

If to Mortgagee:

44. **NOTICES:** Any notices, demands and requests required or desired to be given hereunder shall be in writing and shall be deemed properly served if delivered in person or by United States registered or certified mail, return receipt requested, postage prepaid [which shall be deemed received three (3) business days following the postmark thereof], or by Federal Express or other comparable overnight service, addressed as follows:

If, to consider a request by Mortgagee it is necessary that Mortgagee deem it to be to its best interests to retain the assistance of any person, firm or corporation (such as, but not limited to, attorneys, appraisers, engineers, surveyors, etc.) Mortgagee shall reimburse Mortgagee for all costs incurred in connection with the employment of such parties.

b) not be deemed to constitute Mortgagee a venturer or partner with Mortgagee whatsoever nor shall privity of contract be presumed to have been established with any such third party.

a) be narrowly construed to be applicable only to Mortgagee and the facts identified in such consent or approval and no third party shall claim any benefit by reason thereof, and

Documents, Mortgagee agrees that it shall neither seek nor take any deficiency or monetary judgment against Mortgage, or against any property of Mortgage other than the property described herein and in Other Loan Documents, and nothing herein contained or contained in said Note or Other Loan Documents shall be construed as creating any personal liability on the Mortgage, its agents, or employees, all such personal liability being expressly waived by the Mortgage for itself and its successors and assigns, and that so far as Mortgage, and its successors in trust personally are concerned, except as hereinafter set forth, and set forth in a certain Environmental Indemnity Agreement and Guaranty Agreement, both of even date herewith, Mortgage, its successors and assigns, shall look solely to the Mortgaged Premises, and to the income, proceeds and avails thereof for the payment of Indebtedness.

It is further understood and agreed, however, that nothing contained in the preceding paragraphs shall in any manner or way release, affect or impair:

a) the existence of the debt evidenced by the Note;

b) the enforceability of the liens and security interests created by this and the Other Loan Documents;

c) the right of the Mortgagee to recover or receive from Mortgage and/or Randy D. Podolsky (collectively the "Guarantors"), (or to recover or receive other property of the Guarantors in lieu thereof) and the Mortgagee hereby acknowledges and agrees that it shall be fully liable for:

i) any and all of Mortgage's costs, expenses, damages or liabilities, including, without limitation, all reasonable attorney fees, directly or indirectly arising out of or attributable to any fraud, misrepresentation, or misappropriation of funds by the Guarantors;

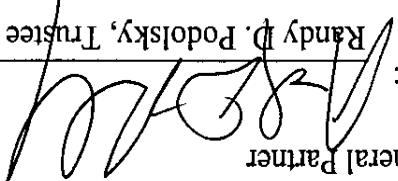
ii) an amount necessary to repair any damage to the Mortgaged Premises due to waste;

iii) any rental income or other income, received by Guarantors from and after the occurrence of a Default, or security deposits, from tenants of all or any part of the Mortgaged Premises not paid over to Mortgage on account of sums due under the Note and Mortgage or as otherwise applied by Guarantors on account of the expenses of the Mortgaged Premises or repairs and maintenance of the same;

iv) any sums expended by Mortgagee in the performance or compliance of all covenants, agreements, and provisions of any lease specifically assigned to Mortgagee as additional security for the indebtedness evidenced hereby, which is so expended by reason of the

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By: THE RANDY D. PODOLSKY REVOCABLE
 TRUST u/a/d August 4, 1980, an authorized
 General Partner
 By: 
 Randy D. Podolsky, Trustee

By: PODFAM ASSOCIATES, an Illinois general
 partnership, Manager
 ROSNOR BUILDING ASSOCIATES, LLC, an
 Illinois limited liability company

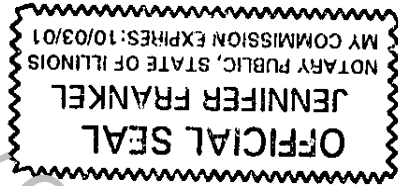
IN WITNESS WHEREOF, Mortgagor has caused this Mortgage to be signed by its duly
 authorized officers on the day and year first above written.

- Guarantors' neglect or refusal to so perform said obligations or to prevent
 the Mortgagor from recovering any rentals lost as a result of the
 Guarantors' failure to perform said obligations;
- v). any sums expended by Mortgagor, exceeding sums deposited
 pursuant to Paragraph 4 hereof, to pay Impositions or premiums on
 Insurance Policies;
- vi). any funds expended by Mortgagor to replace Mortgagor's
 personal property removed from the Mortgaged Premises and not replaced
 by the Guarantors;
- vii). any Proceeds or Awards (as such terms are defined in the
 Mortgage) received by the Guarantors and not applied in accordance with
 Paragraphs 6 or 7 hereof;
- viii). any and all of Mortgagor's costs, expenses, damages or
 liabilities, as set forth in the Environmental Indemnity Agreement of even
 date herewith; and
- ix). any and all of Mortgagor's costs, expenses, damages or
 liabilities, including, without limitation, all reasonable attorney fees,
 directly or indirectly arising out of or attributable to Mortgagor's or the
 Guarantors' failure to comply with the Americans with Disabilities Act
 (A.D.A.) 42 U.S.C. Section 12101 et seq., with respect to the Mortgaged
 Premises.

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Property of Cook County Clerk's Office



Jennifer Frankel
Notary Public

Given under my hand and Notarial Seal this 10th day of January, 2001.

I, Jennifer Frankel, a Notary Public in and for and residing in said County, in the state aforesaid, DO HEREBY CERTIFY that RANDY D. PODOLSKY, Trustee of THE RANDY D. PODOLSKY REVOCABLE TRUST, an authorized General Partner of PODFAM ASSOCIATES, an Illinois general partnership, the Manager of ROSNOR BUILDING ASSOCIATES, LLC, an Illinois limited liability company, who is personally known to me to be the same person whose name is subscribed to the foregoing instrument as such Trustee, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said Company, for the uses and purposes therein set forth.

STATE OF ILLINOIS)
COUNTY OF COOK)
SS:)