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## SUBORDINATION AGREEMENT

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Cook County Recorder 167.50

THIS SUBORDINATION AGREEMENT (this "Agreement") is entered into as of the 6<sup>th</sup> day of March, 2000, by and among (i) CAPRI CAPITAL DUS, LLC, a Delaware limited liability company ("Senior Lender"), (ii) AETNA LIFE INSURANCE COMPANY, a Connecticut corporation (the "Subordinate Lender"), and (iii) EUGENIE TERRACE ASSOCIATES, L.L.C., an Illinois limited liability company (the "Borrower").



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### Recitals

A. CAPRI CAPITAL DUS, LLC, a Delaware limited liability company (sometimes herein, "Capri"), is making a loan (the "First Mortgage Loan") to the Borrower in the original principal amount of \$34,500,000.00. The First Mortgage Loan will be secured by, among other things, a first lien Multifamily Mortgage, Assignment of Rents and Security Agreement (the "First Mortgage") on a multifamily housing project known as Eugenie Terrace Apartments located in Chicago, Illinois (the "Property"). The Property is more fully described in Exhibit A attached hereto. The Borrower's obligation to repay the First Mortgage Loan will be evidenced by a Multifamily Note dated as of March 6, 2000 (the "First Mortgage Note"), and will be due in full on April 1, 2010. Immediately upon the making of the First Mortgage Loan, Capri will deliver the First Mortgage Loan, and assign all of the documents evidencing and securing the First Mortgage Loan, to FANNIE MAE, a federally-chartered and stockholder-owned corporation ("Fannie Mae"). Servicing of the First Mortgage Loan on behalf of Fannie Mae will be retained by Capri (the "Servicer").

B. Concurrently with the Borrower's entering into the First Mortgage Loan, the Borrower will obtain a loan from the Subordinate Lender in the principal amount of \$35,380,000.00 (the "Subordinate Mortgage Loan") secured by, inter alia, a mortgage lien against the Property which is subordinate to the lien of the First Mortgage.

C. Fannie Mae has agreed to acquire the First Mortgage Loan from Capri and to permit the Subordinate Mortgage (defined below) to be a permitted encumbrance on the Property, and the Subordinate Lender is willing to make the Subordinate Mortgage Loan secured by, inter alia, a mortgage lien against the Property, subordinate to the lien of the First Mortgage, provided that the parties enter into this Agreement regarding certain rights and obligations of Senior Lender as holder of the First Mortgage Loan and Subordinate Lender as holder of the Subordinate Mortgage Loan.

NOW, THEREFORE, in order to induce Capri to make the First Mortgage Loan, to induce Fannie Mae to acquire the First Mortgage Loan, and to induce Subordinate Lender to make the Subordinate Mortgage Loan to the Borrower secured by, inter alia, a mortgage lien against the Property subordinate to the lien of the First Mortgage, and in consideration thereof, the Senior Lender, the Subordinate Lender and the Borrower agree as follows:

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**1. Definitions.**

In addition to the terms defined in the Recitals to this Agreement, for purposes of this Agreement the following terms have the respective meanings set forth below:

“Affiliate” means, when used with respect to a Person, any corporation, partnership, joint venture, limited liability company, limited liability partnership, trust or individual controlled by, under common control with, or which controls such Person (the term “control” for these purposes shall mean the ability, whether by the ownership of shares or other equity interests, by contract or otherwise, to elect a majority of the directors of a corporation, to make management decisions on behalf of, or independently to select the managing partner of, a partnership, or otherwise to have the power independently to remove and then select a majority of these individuals exercising managerial authority over an entity, and control shall be conclusively presumed in the case of the ownership of 50% or more of the equity interests).

“Borrower” means the Person named as such in the first paragraph of this Agreement and any other Person (other than the Senior Lender or the Subordinate Lender) who acquires title to the Property after the date of this Agreement.

“Business Day” means any day other than Saturday, Sunday or a day on which the Senior Lender or the Subordinate Lender is not open for business.

“First Mortgage Loan Default” means the occurrence of an “Event of Default” as that term is defined in the First Mortgage Loan Documents.

“First Mortgage Loan Documents” means the First Mortgage Note, First Mortgage and all other documents evidencing, securing or otherwise executed and delivered in connection with the First Mortgage Loan and identified on Schedule I attached hereto and made a part hereof.

“Imposition Deposits” shall have the meaning given to that term in the First Mortgage.

“Person” means an individual, estate, trust, partnership, limited liability company, corporation, governmental department or agency or any other entity which has the legal capacity to own property.

“Senior Lender” means the Person named as such on page 1 of this Agreement, Fannie Mae and any other Person who becomes the legal holder of the First Mortgage Note after the date of this Agreement.

“Subordinate Lender” means the Person named as such in the first paragraph on page 1 of this Agreement and any other Person who becomes the legal holder of the Subordinate Note after the date of this Agreement.

“Subordinate Mortgage Loan Default” means the occurrence of an “Event of Default” as that term is defined in the Subordinate Mortgage Loan Documents.

“Subordinate Mortgage Loan Documents” means the Subordinate Note, the Subordinate Mortgage and all other documents evidencing, securing or otherwise executed and delivered in connection with the Subordinate Mortgage Loan and identified on Schedule II attached hereto and made a part hereof.

“Subordinate Mortgage” means the Junior Mortgage, Assignment of Rents and Security Agreement encumbering the Property as security for the Subordinate Mortgage Loan (which is being recorded among the applicable land records at or about the same time as the recording of this Agreement).

“Subordinate Mortgage Note” means the Secured Junior Promissory Note dated March 6, 2000, issued by the Borrower to the order of Subordinate Lender to evidence the Subordinate Mortgage Loan.

“Taxes” means all real estate taxes, assessment, vault rentals and other charges, if any, general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a lien, on the Property.

## 2. **Permission to Place Mortgage Lien Against Property.**

Senior Lender agrees, notwithstanding any prohibition against inferior liens on the Property contained in the First Mortgage Loan Documents and subject to the provisions of this Agreement, to permit the Subordinate Lender (i) to place a mortgage lien against the Property (which mortgage lien will be subordinate in all respects to the lien of the First Mortgage) to secure, *inter alia*, the Borrower’s obligation to repay the Subordinate Mortgage Note, and (ii) to obtain, and to record or file, UCC Financing Statements perfecting and/or securing, a security interest in fixtures and other personal property related to the Property, the lien of which will be subordinate to the lien of the UCC Financing Statements filed or recorded by Senior Lender. By its execution hereof, Senior Lender also consents to Borrower’s and Subordinate Lender’s entering into the other Subordinate Mortgage Loan Documents, and agrees that the making of the Subordinate Mortgage Loan, and the execution, delivery and/or recording of the Subordinate Mortgage Loan Documents, will not constitute a Transfer or an Event of Default as such terms are defined in the First Mortgage Loan Documents.

3. **Borrower's Representations and Warranties.**

By its execution of this Agreement, the Borrower makes the following representations and warranties to the Senior Lender and the Subordinate Lender:

(a) **Subordinate Mortgage Loan Documents.** The Subordinate Mortgage Loan is evidenced by the Subordinate Mortgage Note and the other Subordinate Mortgage Loan Documents and is secured by, inter alia, the Subordinate Mortgage. Subordinate Lender certifies that Schedule II is a complete and accurate list of all of the Subordinate Mortgage Loan Documents evidencing and/or securing the Subordinate Mortgage Loan.

(b) **Subordinate Mortgage Note.** The Subordinate Mortgage Note contains substantially the following provision:

The indebtedness evidenced by this Note is and shall be subordinate to the indebtedness evidenced by a Multifamily Note dated as of March 6, 2000, in the original principal amount of \$34,500,000.00, issued by Maker and payable to the order of Capri Capital DUS, LLC and to be endorsed to the order of Fannie Mae ("Senior Lender"), to the extent and in the manner provided in that certain Subordination Agreement dated as of March 6, 2000, among the payee of this Note, Borrower and Senior Lender (the "Subordination Agreement"). The Mortgage securing this Note is and shall be subject and subordinate in all respects to the liens, terms, covenants and conditions of the Multifamily Mortgage securing the Multifamily Note as set forth in the Subordination Agreement. The rights and remedies of the Payee and each subsequent holder of this Note under the Mortgage securing this Note and under all other documents evidencing, securing or otherwise relating to the indebtedness evidenced by this Note are subject to the restrictions and limitations set forth in the Subordination Agreement. Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by the Subordinate Lender under the Subordination Agreement.

(c) **First Mortgage Loan Documents.** The First Mortgage Loan is evidenced by the First Mortgage Note and the other First Mortgage Loan Documents and is secured by, inter alia, the First Mortgage.

(d) **First Mortgage Note.** The First Mortgage Note contains substantially the following provision:

Lender has consented to the placement on the Mortgaged Property of that certain subordinate Junior Mortgage, Assignment of Rents and Security Agreement dated March 6, 2000 granted by Borrower to Aetna Life Insurance Company ("Subordinate Lender") to secure a subordinate mortgage loan to Borrower, in the original principal

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amount of \$35,380,000.00 (the "Subordinate Mortgage Loan"). In connection with the Subordinate Mortgage Loan, Lender has entered into a certain Subordination Agreement, dated as of March 6, 2000, with Subordinate Lender and Borrower (the "Subordination Agreement"). Each subsequent holder of this Note shall be deemed, by virtue of such holder's acquisition of this Note, to have agreed to perform and observe all of the terms, covenants and conditions to be performed or observed by Lender as Senior Lender under the Subordination Agreement.

(e) **Relationship of Borrower to Senior Lender, Subordinate Lender and Servicer.** None of the Senior Lender, the Subordinate Lender or the Servicer is an Affiliate of the Borrower.

(f) **Loan Documents.** The list of First Mortgage Loan Documents attached hereto as Schedule I is accurate and complete. The list of Subordinate Mortgage Loan Documents attached hereto as Schedule II is accurate and complete. Borrower has heretofore delivered to Senior Lender true, correct and complete copies of the Subordinate Mortgage Loan Documents (with the exception of the ERISA Certificate identified on Schedule II) and has heretofore delivered to Subordinate Lender true, correct and complete copies of the First Mortgage Loan Documents.

#### 4. **Terms of Subordination.**

(a) **Agreement to Subordinate.** Senior Lender and the Subordinate Lender agree that the Subordinate Mortgage and the other Subordinate Mortgage Loan Documents are and shall be subject and subordinate in all respects to the lien of the First Mortgage and the other First Mortgage Loan Documents and to all advances which may hereafter be made by Senior Lender after the occurrence and during the continuance of a First Mortgage Loan Default for the purpose of paying Taxes and insurance premiums, making necessary repairs to the Property, protecting or further securing the lien and priority of the First Mortgage or curing a First Mortgage Loan Default.

(b) **Subordination of Subrogation Rights.** The Subordinate Lender agrees that if, by reason of its payment of Taxes or other monetary obligations of the Borrower, or by reason of its exercise of any other right or remedy under the Subordinate Mortgage Loan Documents, it acquires by right of subrogation or otherwise a lien on the Property which (but for this subsection) would be senior to the lien of the First Mortgage, then, in that event, such lien shall be subject and subordinate to the lien of the First Mortgage.

(c) **Notice of First Mortgage Loan Default and Subordinate Lender Cure Rights.** The Senior Lender agrees to send to Subordinate Lender a copy of any written notice of First Mortgage Loan Default sent by Senior Lender to Borrower concurrently with delivery of such written notice to Borrower. Any failure to send such copy of written notice of First Mortgage Loan Default to Subordinate Lender shall not affect Senior Lender's rights with respect to Subordinate Lender under this Agreement or with respect to Borrower under



the First Mortgage Loan Documents, except that, in the absence of (i) a bankruptcy or insolvency event with respect to the Borrower or (ii) the failure to pay the First Mortgage Loan in full at maturity, Senior Lender will not exercise its remedies under the First Mortgage Loan Documents against Borrower until after Senior Lender has given Subordinate Lender the notice and opportunity to cure contemplated by this Section 4(c). The Subordinate Lender shall have the right, but not the obligation, to cure any First Mortgage Loan Default within the same time period, if any, for curing a First Mortgage Loan Default which is given to the Borrower under the First Mortgage Loan Documents, except that (i) the Subordinate Lender's time period for cure shall begin on the date on which it receives a copy of the written notice to Borrower of a First Mortgage Loan Default, and (ii) the Subordinate Lender shall have five (5) Business Days after receipt of such copy of written notice in which to cure any monetary First Mortgage Loan Default and thirty (30) days after receipt of such copy of written notice in which to cure any non-monetary First Mortgage Loan Default. If any such non-monetary First Mortgage Loan Default is not reasonably capable of being cured within such 30 day period, then so long as (1) there is not otherwise a monetary First Mortgage Loan Default (or so long as Subordinate Lender cures, within the five (5) Business Day cure period specified above, any monetary First Mortgage Loan Default) that arises during such extended non-monetary First Mortgage Loan Default cure period; (2) the Property is not suffering material deterioration or waste during the extended term of such non-monetary First Mortgage Loan Default cure period; and (3) Subordinate Lender provides written reports to Senior Lender regarding the progress of its efforts to effect such non-monetary default cure every 30 days (or more frequently upon Senior Lender's reasonable request), Subordinate Lender shall have such additional period of time not to exceed 60 days in which to cure such non-monetary First Mortgage Loan Default as shall be necessary to complete such cure with reasonable diligence (such 60 day period may be further extended by Senior Lender for such additional period of time necessary to permit Subordinate Lender to acquire possession of the Property by foreclosure if any such non-monetary First Mortgage Loan Default is not, in Senior Lender's determination, reasonably capable of being cured without Subordinate Lender acquiring possession of the Property so long as foreclosure pleadings are instituted by Subordinate Lender within 60 days of receipt of the notice of non-monetary First Mortgage Loan Default and Subordinate Lender diligently prosecutes foreclosure, but in no event shall such additional period of time extend beyond the date of any dismissal of the foreclosure proceedings nor beyond nine months from the date foreclosure proceedings are instituted). Notwithstanding the foregoing, Subordinate Lender shall have no right or opportunity under this Section 4(c) to cure (i) a bankruptcy or insolvency event, (ii) a First Mortgage Loan Default relating to the validity, binding effect, legality or enforceability of, or denial of liability under any of the First Mortgage Loan Documents, or (iii) any other non-monetary First Mortgage Loan Default which cannot reasonably be cured. Further, Subordinate Lender's opportunity to cure a First Mortgage Loan Default in the maintenance of required insurance resulting in a gap in builder's risk, property, hazard, business interruption or commercial general liability insurance shall be limited to two (2) Business Days after Subordinate Lender receives a copy of the written notice of First Mortgage Loan Default relating thereto. All amounts advanced or expended by the Subordinate Lender to cure a First Mortgage Loan Default shall be deemed to have

been advanced by the Subordinate Lender pursuant to, and shall be secured by the lien of, the Subordinate Mortgage.

(d) **Senior Lender's Exercise of Remedies.** Except with respect to a First Mortgage Loan Default occurring as a result of the Borrower's failure to pay the First Mortgage Loan in full at maturity, if a First Mortgage Loan Default occurs and is continuing, the Senior Lender agrees that it will not commence foreclosure proceedings with respect to the Property under the First Mortgage Loan Documents or exercise any other rights or remedies it may have under the First Mortgage Loan Documents against Borrower, including, but not limited to accelerating the First Mortgage Loan (including enforcing any "due on sale" provision included in the First Mortgage Loan Documents), collecting rents, appointing (or seeking the appointment of) a receiver or exercising any other rights or remedies hereunder against Borrower until the expiration of the Subordinate Lender's cure period provided for in Section 4(c) above, so long as Subordinate Lender cures any monetary First Mortgage Loan Default within the five (5) Business Day cure period specified in Section 4(c) above.

(e) **Cross Default.** The Senior Lender agrees that a monetary First Mortgage Loan Default shall constitute a Subordinate Mortgage Loan Default under the Subordinate Mortgage Loan Documents and the Subordinate Lender shall have the right in such case to exercise all rights or remedies under the Subordinate Mortgage Loan Documents in the same manner as in the case of any other Subordinate Mortgage Loan Default. If the Senior Lender notifies the Subordinate Lender in writing that any First Mortgage Loan Default of which the Subordinate Lender has received a copy of the written notice of First Mortgage Loan Default sent by Senior Lender to Borrower has been cured or waived, as determined by the Senior Lender in its sole discretion, then provided that title to the Property has not been transferred by foreclosure or deed in lieu of foreclosure pursuant to Subordinate Lender's rights under the Subordinate Mortgage Loan Documents and this Agreement, any Subordinate Mortgage Loan Default under the Subordinate Mortgage Loan Documents arising solely from such First Mortgage Loan Default shall be deemed cured, and the Subordinate Mortgage Loan shall be reinstated, provided, however, that the Subordinate Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Subordinate Lender during such Subordinate Mortgage Loan Default.

(f) **Subordinate Lender's Right to Purchase First Mortgage Loan.** So long as Subordinate Lender has cured and continues to cure all monetary First Mortgage Loan Defaults and has cured or is diligently pursuing the cure of all non-monetary First Mortgage Loan Defaults in accordance with the terms of, and within the cure periods set forth in, Section 4(c) above, then after the occurrence and during the continuance of a First Mortgage Loan Default, the Subordinate Lender shall have the right, at its option, to purchase from the Senior Lender all of the Senior Lender's right, title and interest in and to the First Mortgage Loan and the First Mortgage Loan Documents (the "Loan Purchase Option"). The Loan

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Purchase Option shall be exercised by the Subordinate Lender's giving written notice of exercise to the Senior Lender on or before the earlier of:

- (i) the expiration of the cure periods set forth in Section 4(c), or
- (ii) as to a monetary First Mortgage Loan Default (other than failure to pay the remaining balance of the First Mortgage Loan upon acceleration for a non-monetary First Mortgage Loan Default, herein a "Non-Monetary Acceleration"), sixty (60) days following the Subordinate Lender's receipt of the Senior Lender's notice of a First Mortgage Loan Default given pursuant to Section 4(c) above (or such later date as Subordinate Lender becomes aware of a written notice of First Mortgage Loan Default sent by Senior Lender to Borrower but not provided to Subordinate Lender pursuant to Section 4(c) above), or
- (iii) as to a non-monetary First Mortgage Loan Default (including a Non-Monetary Acceleration), one hundred twenty (120) days following the Subordinate Lender's receipt of the Senior Lender's notice of a First Mortgage Loan Default given pursuant to Section 4(c) above (or such later date as Subordinate Lender becomes aware of a written notice of First Mortgage Loan Default sent by Senior Lender to Borrower but not provided to Subordinate Lender pursuant to Section 4(c) above),

which exercise notice shall set forth a date of closing of such purchase which is not less than ten (10) days nor more than sixty (60) days following the date of such exercise notice. The purchase price for the First Mortgage Loan shall be an amount which is equal to the sum of (i) the outstanding principal balance of the First Mortgage Loan on the closing date of the subordinate Lender's purchase of the First Mortgage Loan, plus (ii) any prepayment fee that would be due upon a prepayment of the First Mortgage Loan on the closing date of the Subordinate Lender's purchase of the First Mortgage Loan, plus (iii) all accrued but unpaid interest due on the First Mortgage Loan through the last day of the month in which purchase occurs, plus (iv) all other sums then due and owing from the Borrower to the Senior Lender under the First Mortgage Loan Documents, including but not limited to attorneys' fees, court costs and all out of pocket costs and expenses incurred by Senior Lender in connection with the First Mortgage Loan Default. The Senior Lender shall execute and deliver to the Subordinate Lender any and all documents necessary and customary in order to effectuate such transaction, including endorsing the First Mortgage Note without recourse in favor of the Subordinate Lender and assigning the First Mortgage Loan Documents to the Subordinate Lender.

In connection with such purchase of the First Mortgage Loan, Senior Lender shall be provided with (i) a release and indemnification from Subordinate Lender, in form and substance satisfactory to Senior Lender, as to any and all demands, actions, costs, expenses and liabilities whatsoever, known or unknown, at law or in equity, originating in whole or in part, on or before the date thereof and/or in connection with the purchase by Subordinate Lender of the First Mortgage Loan, which the Subordinate Lender, or any of its partners,



members, officers, agents or employees, may then or thereafter have against the Senior Lender and any loss, cost or damage, of any kind or character, arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Senior Lender on or before the date thereof and/or in connection with the purchase by Subordinate Lender of the First Mortgage Loan; and (ii) a release from Borrower, in form and substance satisfactory to Senior Lender, as to any and all demands, actions, costs, expenses and liabilities whatsoever, known or unknown, at law or in equity, originating in whole or in part, on or before the date thereof and/or in connection with the purchase by Subordinate Lender of the First Mortgage Loan, which the Borrower, or any of its partners, members, officers, agents or employees, may then or thereafter have against the Senior Lender and any loss, cost or damage, of any kind or character, arising out of or in any way connected with or in any way resulting from the acts, actions or omissions of Senior Lender on or before the date thereof and/or in connection with the purchase by Subordinate Lender of the First Mortgage Loan.

In no event shall Senior Lender be obligated to accept any cure by Borrower of a First Mortgage Loan Default on or after Senior Lender's receipt of Subordinate Lender's notice of exercise of the Loan Purchase Option pursuant to this subsection (f).

**(g) Payments on Subordinate Mortgage Loan After First Mortgage Loan Default.** The Subordinate Lender agrees that, after it receives a copy of written notice of a monetary First Mortgage Loan Default, Subordinate Lender will not accept any payments under or pursuant to the Subordinate Mortgage Loan Documents (including but not limited to principal, interest, additional interest, late payment charges, default interest, attorneys' fees or any other sums secured by the Subordinate Mortgage) without the Senior Lender's prior written consent unless and until Subordinate Lender cures such monetary First Mortgage Loan Default within the five (5) Business Day cure period set forth in Section 4(c) above. Any such payments received by Subordinate Lender from the Borrower or any other Person in connection with the Subordinate Loan which the Subordinate Lender is not permitted by this Section 4(g) to retain for its own account shall be disclosed to Senior Lender concurrently with Subordinate Lender's receipt thereof, shall be held in trust for the Senior Lender and, unless the Senior Lender otherwise notifies Subordinate Lender, will be promptly remitted, in kind, to the Servicer on behalf of the Senior Lender, properly endorsed to the Servicer, to be applied to the principal of, interest on and other amounts then due under the First Mortgage Loan Documents. Consistent with the foregoing, unless a monetary First Mortgage Loan Default occurs and is not cured within the five (5) Business Day cure period set forth in Section 4 (c) above, Subordinate Lender shall be entitled to retain payments made by the Guarantors (as such term is defined in the Subordinate Instrument) to Subordinate Lender pursuant to Section 6.20 of the Subordinate Instrument representing the Deferral Period Interest Differential (as such term is also defined in the Subordinate Instrument).

**(h) Notice of Subordinate Mortgage Loan Default.** The Subordinate Lender agrees to send to Senior Lender a copy of any written notice of Subordinate Mortgage Loan

Default sent by Subordinate Lender to Borrower concurrently with the delivery of such written notice to Borrower.

**5. Foreclosure; Cross-Default under the Subordinate Mortgage Loan Documents.**

(a) **Effect of Foreclosure by Subordinate Lender.** In the event that the Subordinate Lender or an Affiliate of the Subordinate Lender shall acquire title to the Property by foreclosure or deed in lieu of foreclosure or otherwise, then, notwithstanding any provisions in the First Mortgage Loan Documents to the contrary, the Senior Lender shall have no right to approve the Transfer of the title to the Property to Subordinate Lender or an Affiliate of the Subordinate Lender, and such Transfer shall be deemed automatically approved by the Senior Lender upon written notice from Subordinate Lender or its Affiliate, as applicable, to Senior Lender. Concurrently with any such transfer, the Subordinate Lender or its Affiliate shall execute such documents as are necessary and customary to effect the assumption of all of the obligations of the Borrower and the Key Principal, if any, under the First Mortgage Loan Documents and shall employ a professional property management company having credentials comparable to or better than those of the property management company last approved by the Senior Lender and otherwise reasonably acceptable to the Senior Lender. Any management agreement with such property management company shall be made subject to a collateral assignment comparable to the Assignment of Management Agreement which is included as a First Mortgage Loan Document on Schedule I. Subsequent Transfers (as such term is defined in the First Mortgage) shall be fully subject to the restrictions contained in the First Mortgage Loan Documents. To the greatest extent possible, Subordinate Lender will provide no less than five (5) Business Days prior written notice of the anticipated Transfer.

(b) **Cross Default.** The Subordinate Lender agrees that a Subordinate Mortgage Loan Default shall, at the option of Senior Lender, constitute a First Mortgage Default under the First Mortgage Loan Documents and the Senior Lender shall have the right in such case to exercise all rights or remedies under the First Mortgage Loan Documents in the same manner as in the case of any other First Mortgage Loan Default. If the Subordinate Lender notifies the Senior Lender in writing that any Subordinate Mortgage Loan Default of which the Senior Lender has received a copy of the written notice of Subordinate Mortgage Loan Default has been cured or waived, as determined by the Subordinate Lender in its sole discretion, then provided that title to the Property has not been transferred by foreclosure or deed in lieu of foreclosure pursuant to Senior Lender's rights under the First Mortgage Loan Documents and this Agreement, any First Mortgage Loan Default under the First Mortgage Loan Documents arising solely from such Subordinate Mortgage Loan Default shall be deemed cured, and the First Mortgage Loan shall be reinstated, provided, however, that the Senior Lender shall not be required to return or otherwise credit for the benefit of the Borrower any default rate interest or other default related charges or payments received by the Senior Lender during such Senior Mortgage Loan Default.

**6. Conflict.**

The Senior Lender, the Subordinate Lender and the Borrower each agree that, in the event of any conflict or inconsistency between the terms of the Subordinate Mortgage Loan Documents or the First Mortgage Loan Documents and the terms of this Agreement, the terms of this Agreement shall control. Borrower, by executing this Agreement below, acknowledges that the terms and provisions of this Agreement shall not, and shall not be deemed to: extend Borrower's time to cure any First Mortgage Loan Default or Subordinate Mortgage Loan Default, as the case may be; give the Borrower the right to notice of any First Mortgage Loan Default or Subordinate Mortgage Loan Default, as the case may be, other than that, if any, provided, respectively under the First Mortgage Loan Documents or the Subordinate Mortgage Loan Documents; or create any other right or benefit for the Borrower as against the Senior Lender or the Subordinate Lender except as to the consent of Senior Lender provided in Section 2, reinstatement upon cure of a cross-default pursuant to Sections 4(e) and 5(b), Borrower consent to and/or notice of amendments pursuant to this Section 6, notice of waiver of collection of Imposition Deposits pursuant to Section 7(f), availability of legal and equitable relief pursuant to Section 8 and the non-recourse provisions of Section 10(j) (collectively, the "Borrower Reserved Rights"). By its execution of this Agreement, Borrower acknowledges that this Agreement may be modified or amended without the consent, approval or prior notice of or to Borrower; provided, however, that no modification or amendment which (i) modifies the Borrower Reserved Rights or (ii) modifies or diminishes the rights, or increases the obligations, of Borrower under the First Mortgage Loan Documents and/or the Subordinate Mortgage Loan Documents shall be made without the Borrower's prior written consent. Senior Lender and Subordinate Lender agree to provide Borrower with prompt written notice and copies of all written modifications and amendments to this Agreement.

## 7. Other Rights and Obligations of the Subordinate Lender and the Senior Lender.

Subject to each of the other terms of this Agreement, all of the following provisions shall supersede any provisions of each of the First Mortgage Loan Documents and the Subordinate Mortgage Loan Documents covering the same subject matter:

### (a) Protection of Security Interest.

(1) The Subordinate Lender shall not, without the prior written consent of the Senior Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the Subordinate Mortgage Loan Documents, except that the Subordinate Lender shall have the right, after the occurrence and during the continuance of a Subordinate Mortgage Loan Default, to advance funds pursuant to the Subordinate Mortgage for the purpose of paying Taxes and insurance premiums, making necessary repairs to the Property, protecting or further securing the lien and priority of the Subordinate Mortgage Loan Documents, curing a First Mortgage Loan Default and/or a Subordinate Mortgage Loan Default by the Borrower and for such other purposes as would not reasonably be expected to have a material adverse effect on the rights or interest of the Senior Lender. Notwithstanding the foregoing, Subordinate Lender acknowledges and

agrees that Senior Lender has the first right to cure a Mortgage Loan Default with respect to the payment of Taxes and insurance premiums.

(2) Except in connection with default resolution efforts, the Senior Lender shall not, without the prior written consent of the Subordinate Lender in each instance, take any action which has the effect of increasing the indebtedness outstanding under, or secured by, the First Mortgage Loan Documents, except that the Senior Lender shall have the right, after the occurrence and during the continuance of a First Mortgage Loan Default, to advance funds pursuant to the First Mortgage for the purpose of paying Taxes and insurance premiums, making necessary repairs to the Property, protecting or further securing the lien and priority of the First Mortgage Loan Documents, curing a First Mortgage Loan Default and for such other purposes as would not reasonably be expected to have a material adverse effect on the rights or interest of the Subordinate Lender.

(b) **Condemnation or Casualty.** In the event of (i) a taking or threatened taking by condemnation or other exercise of eminent domain of all or substantially all of the Property (collectively, a "Total Taking") or (ii) the occurrence of a fire or other casualty resulting in destruction of all or substantially all of the Property (collectively, a "Total Casualty"), at any time when the First Mortgage and Subordinate Mortgage remain as liens on the Property, the following provisions shall apply:

(1) The Subordinate Lender and the Senior Lender hereby acknowledge that they each have the right to participate in any proceeding or action relating to a Total Taking and/or a Total Casualty, and to participate or join in any settlement of, or to adjust, any claims resulting from a Total Taking or a Total Casualty, and shall use best efforts to exercise such rights in a cooperative manner, and that any settlement or adjustment of a claim resulting from a Total Taking or a Total Casualty shall require the prior written consent of both the Subordinate Lender and the Senior Lender; provided, however, that in the event the Subordinate Lender does not cure any First Mortgage Loan Default within the applicable cure periods set forth in Section 4(c) above at any time that such settlement or adjustment proceedings are pending, the consent of the Senior Lender thereto shall control and bind Subordinate Lender.

(2) Except as otherwise may be agreed in writing by the Subordinate Lender and the Senior Lender, all proceeds received or to be received on account of a Total Taking or a Total Casualty, or both, shall be applied first, in accordance with and subject to all applicable provisions of the First Mortgage Loan Documents (which may result in application to the repair, restoration or demolition of the Property and/or payment in whole or in part of the principal of, interest on and other amounts payable under the First Mortgage Loan Documents) and second, to the extent any remaining balance of proceeds would otherwise be released by Senior



Lender to Borrower, to Subordinate Lender to be applied in accordance with the applicable provisions of the Subordinate Loan Documents.

In the event of (i) a taking or threatened taking by condemnation or other exercise of eminent domain of a portion of the Property (collectively, a "Partial Taking"), or (ii) the occurrence of a fire or other casualty resulting in damage to or destruction of a portion of the Property (collectively, a "Partial Casualty"), at any time when the First Mortgage and Subordinate Mortgage remain as liens on the Property, the following provisions shall apply:

(3) The Subordinate Lender and the Senior Lender hereby acknowledge that they each have the right to participate in any proceeding or action relating to a Partial Taking and/or a Partial Casualty, and to participate or join in any settlement of, or to adjust, any claims resulting from a Partial Taking or a Partial Casualty, and shall use best efforts to exercise such rights in a cooperative manner, and that any settlement or adjustment of a claim resulting from a Partial Taking or a Partial Casualty shall require the prior written consent of both the Subordinate Lender and the Senior Lender; provided, however, that in the event the Subordinate Lender does not cure any First Mortgage Loan Default within the applicable cure periods set forth in Section 4(c) above at any time that such settlement or adjustment proceedings are pending, the consent of the Senior Lender thereto shall control and bind Subordinate Lender.

(4) Except as otherwise may be agreed in writing by the Subordinate Lender and the Senior Lender, all proceeds received or to be received on account of a Partial Taking or a Partial Casualty, or both, shall be applied first, in accordance with and subject to all applicable provisions of the First Mortgage Loan Documents (which may result in application to the repair, restoration or demolition of the Property and/or the payment in whole or in part of the principal of, interest on and other amounts payable under the First Mortgage Loan Documents) and second, to the extent any remaining balance of proceeds would otherwise be released by Senior Lender to Borrower, to Subordinate Lender to be applied in accordance with the applicable provisions of the Subordinate Loan Documents.

The parties agree to execute and deliver all documents, instruments, agreements and further assurances required to effectuate the provisions of this subsection (b).

(c) **Insurance.** The Subordinate Lender agrees that all original policies of insurance required pursuant to the First Mortgage shall be held by the Senior Lender. The preceding sentence shall not preclude the Subordinate Lender from holding a copy or duplicate original of such policies or from requiring that it be named as a loss payee, as its interest may appear, under all policies of property damage insurance maintained by the Borrower with respect to the Property, provided such action does not affect the priority of payment of the proceeds of property insurance under the First Mortgage Loan Documents,

and/or that it be named as an additional insured under all policies of liability insurance maintained by the Borrower with respect to the Property.

**(d) No Modification of Subordinate Mortgage Loan Documents.** The Subordinate Lender agrees that, until the principal of, interest on and all other amounts payable under the First Mortgage Loan Documents have been paid in full, it will not, without the prior written consent of the Senior Lender in each instance, (i) increase, renew or replace the Subordinate Loan Documents or any of them, (ii) amend, modify or extend the Subordinate Mortgage Loan Documents or any of them, in a manner that could reasonably be expected to have a material adverse effect on the Senior Lender, (iii) waive the benefit of any provision or requirement thereof where such waiver could reasonably be expected to have a material adverse effect on the interest of the Senior Lender or (iv) assign any interest in the Subordinate Loan except to an Affiliate of Subordinate Lender advised by Allegis Realty Advisors or to an affiliate of United Bank of Switzerland advised by Allegis Realty Advisors and only upon no less than ten (10) Business Days prior written notice to Senior Lender. Amendments, modifications or extensions that can reasonably be expected to have a material adverse effect on the Senior Lender shall include, but not be limited to, amendments, modifications or extensions which evidence any new advance of funds, change the fixed or contingent interest due thereunder, require any additional or eliminate any existing reserve or escrow, change any of the other payment terms or accelerate the maturity date of the Subordinate Loan. Any proposed amendment, modification, increase, extension, renewal or replacement of the Subordinate Mortgage Loan Documents or any of them shall be submitted to Senior Lender for review no less than ten (10) Business Days prior to the anticipated execution or effective date thereof.

**(e) No Modification of First Mortgage Loan Documents.** The Senior Lender agrees that, until the principal of, interest on and all other amounts payable under the Subordinate Mortgage Loan Documents have been paid in full, it will not, without the prior written consent of the Subordinate Lender in each instance, amend, modify, increase, extend, renew or replace the First Mortgage Loan Documents, or any of them, or waive the benefit of any provision or requirement thereof where such waiver could reasonably be expected to have a material adverse effect on the interest of the Subordinate Lender, except in connection with efforts (other than new advances of funds or increases in the applicable interest rate) to resolve one or more First Mortgage Loan Defaults.

**(f) Escrow and Reserves.**

(1) Escrow for Taxes and Insurance. The Senior Lender will require the Borrower to make Imposition Deposits on a monthly basis to the Servicer with respect to Taxes and insurance in accordance with the provisions of Section 7 of the First Mortgage. The Servicer shall promptly deliver to the Subordinate Lender a copy of any paid receipt received by Servicer from the applicable taxing authorities evidencing the payment of Taxes then due and payable, and to promptly deliver to the Subordinate Lender a copy of any paid receipt received by Servicer from the

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applicable insurer evidencing the payment of the insurance premium then due and payable.

If at any time during the term of the Subordinate Mortgage Loan, the Senior Lender or the Servicer ceases to collect the Imposition Deposits for Taxes and property insurance, or any part thereof, the Servicer shall promptly notify the Subordinate Lender of such fact, and the Subordinate Lender shall have the right, in its discretion, to establish such escrows (or applicable part) in accordance with the terms and conditions of the Subordinate Mortgage Loan Documents. If the Subordinate Lender establishes such escrow(s), the Senior Lender shall, upon the request of the Subordinate Lender, and with written notice to the Borrower but without need for consent of the Borrower, pay over to the Subordinate Lender, for deposit into such escrow(s) any amounts remaining in the Taxes and Insurance Escrow (or part thereof that the Senior Lender is no longer collecting).

(2) **Capital Expenditure and Other Reserves.** The Subordinate Lender shall not collect from the Borrower, nor hold in an escrow account under any of the Subordinate Mortgage Loan Documents, a completion/repair or capital expenditures reserve, a replacement reserve nor any other reserve, all such reserves to be held by Senior Lender pursuant to the terms of the First Mortgage Loan Documents. Senior Lender agrees to provide Subordinate Lender with notice of substantial deviations in the amount of the monthly replacement reserve deposits to be collected by Senior Lender under the Replacement Reserve and Security Agreement to be executed between Senior Lender and Borrower, including notice of any annual adjustment pursuant to the terms thereof.

(g) **Bankruptcy and Insolvency Events.** Subordinate Lender will not commence an involuntary bankruptcy or other insolvency proceeding under any federal or state law with respect to the Borrower as debtor. Further, in the event a voluntary or involuntary bankruptcy or other insolvency proceeding under any federal or state law is filed by or against Borrower, Subordinate Lender agrees that it shall not contest any cash collateral order submitted by Senior Lender which provides for Property rents and profits to be paid to Senior Lender and applied to scheduled and delinquent amounts then due and payable under the First Mortgage Loan Documents. Further, upon any payment or distribution (whether in cash, securities or other property) to creditors of Borrower in the event of (i) any winding-up, insolvency, bankruptcy, liquidation or reorganization of Borrower, whether voluntary or involuntary, (ii) any proceeding for reorganization, liquidation, bankruptcy, dissolution or other winding-up of Borrower or its assets, whether or not involving insolvency or bankruptcy, (iii) any assignment by Borrower for the benefit of creditors or (iv) any receivership or other similar proceeding or any marshaling of assets of Borrower, Subordinate Lender agrees that the principal, interest and all other amounts payable under the First Mortgage Loan shall first be paid in full in cash before Subordinate Lender shall be entitled to receive any payment or other distribution on or in respect of the Subordinate Loan.

## 8. Default under this Agreement.

If the Subordinate Lender, the Senior Lender or the Borrower (the "Defaulting Party") makes any misrepresentation hereunder or defaults in performing or observing any of the terms, covenants or conditions to be performed or observed by the Defaulting Party under this Agreement, each non-defaulting party other than the Borrower (a "Non-Defaulting Party") shall have the right to all available legal and equitable relief. In the event of a default by the Subordinate Lender under this Agreement (other than failure to give notice to Senior Lender of a Subordinate Mortgage Loan Default, which failure is cured within five (5) Business Days), all rights provided herein for the benefit of Subordinate Lender (including but not limited to notices of First Mortgage Loan Default and opportunities to cure) shall cease and be of no further force and effect. Borrower shall have the right to all available legal and equitable relief in the event of failure by Senior Lender or Subordinate Lender, as applicable, to perform or observe any of the Borrower Reserved Rights.

## 9. Notices.

Each notice, request, demand, consent, approval or other communication (hereinafter in this Section referred to collectively as "notices" and referred to singly as a "notice") which a party hereto is required or permitted to give to any other party pursuant to this Agreement shall be in writing and shall be deemed to have been duly and sufficiently given and received by such other party if (a) personally delivered with proof of delivery thereof (any notice so delivered shall be deemed to have been received at the time so delivered), or (b) sent by Federal Express (or other similar national overnight courier) designating next day delivery (any notice so delivered shall be deemed to have been received on the next Business Day following receipt by the courier), or (c) sent by United States registered or certified mail, return receipt requested, postage prepaid, at a post office regularly maintained by the United States Postal Service (any notice so sent shall be deemed to have been received two days after mailing in the United States), or (d) sent by facsimile (any notice so sent shall be deemed to have been received on the date and at the time set forth on the facsimile confirmation), addressed to the respective parties as follows:

### SENIOR LENDER:

Capri Capital DUS, LLC  
1655 N. Fort Myer Drive, 13<sup>th</sup> Floor  
Arlington, VA 22229  
Attention: Director of Loan Servicing  
Fax #: (703) 525-4323

with a copy to:

*prepared by + return to:*  
Ballard Spahr Andrews & Ingersoll, LLP  
601 13<sup>th</sup> Street, NW, Suite 1000 South  
Washington, DC 20005-3807  
Attention: Mary Jo George, Esq.  
Fax # (202) 661-2299



and, from and after the assignment of the First Mortgage Loan to Fannie Mae, to:

Fannie Mae  
3900 Wisconsin Avenue, N.W.  
Washington, DC 20016  
Attention: Multifamily Operations - Asset Management  
Drawer AM  
Fax # (202) 752- 2897

SUBORDINATE LENDER:

Aetna Life Insurance Company  
c/o UBS Brinson Realty Investors LLC  
242 Trumbull Street  
Hartford, CT 06103-1212  
Attention: Robert D. Wilkins  
Apartment Asset Management  
Fax # (860) 275-3634

with copies to:

UBS Brinson Realty Investors LLC  
242 Trumbull Street  
Hartford, CT 06103-1212  
Attention: General Counsel  
Fax # (860) 275-2117

Dechert Price & Rhoads  
90 State House Square, 12<sup>th</sup> Floor  
Hartford, CT 06103-3702  
Attention: John J. Gillies, Jr., Esq.  
Fax #(860) 524-3930

BORROWER:

Eugenie Terrace Associates, L.L.C.  
1201 North Clark Street, Suite 300  
Chicago Illinois 60610  
Attention: Terry A. McKay  
Fax #: (312) 335-2625

with copies to:

Piper Marbury Rudnick & Wolfe  
203 North LaSalle Street, Suite 1800  
Chicago, Illinois 60601-1293  
Attention: Timothy Ramsey, Esq.  
Fax #: (312) 630-7350

Any party may, by notice given pursuant to this Section, change the person or persons and/or addresses or addresses, or designate an additional person or persons or an additional address or addresses, for its notices, but notice of a change of address shall only be effective upon receipt. Each party agrees that it will not refuse or reject delivery of any notice given hereunder, that it will acknowledge, in writing, receipt of the same upon request by the party giving such notice and that any notice rejected or refused by it shall be deemed for all purposes of this Agreement to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

**10. General.**

(a) **Assignment/Successors; No Third Party Beneficiary.** This Agreement shall be binding upon the Senior Lender, the Subordinate Lender and the Borrower, and shall inure to the benefit of the Senior Lender and the Subordinate Lender and their respective legal successors and assigns and, as to the Borrower Reserved Rights only, to the Borrower and its successors and assigns. This Agreement is intended solely for the benefit of the Senior Lender and the Subordinate Lender and no third party (including but not limited to the Borrower except as to the Borrower Reserved Rights only) shall have any rights or interest in this Agreement except as expressly set forth in Section 6 above. Nothing contained in this Agreement shall be deemed or construed to create an obligation on the part of Senior Lender or Subordinate Lender to any third party (except the Borrower as to the Borrower Reserved Rights only) nor shall any third party (other than the Borrower as to the Borrower Reserved Rights only) have any right to enforce against Senior Lender or Subordinate Lender any right that either may have under this Agreement against the other.

(b) **No Partnership or Joint Venture.** The Senior Lender's permission for the placement of the Subordinate Mortgage Loan does not constitute the Senior Lender as a joint venturer or partner of the Subordinate Lender. No party hereto shall hold itself out as a partner, agent or Affiliate of any other party hereto.

(c) **Consent.** Except as otherwise provided herein, wherever a party's consent or approval is required by any provision of this Agreement, such consent or approval shall not be unreasonably withheld or delayed.

(d) **Further Assurances.** Upon the demand of either the Senior Lender or the Subordinate Lender from time to time, each party agrees to execute and deliver all additional

instruments and/or documents required by the Senior Lender or Subordinate Lender, as the case may be, in order to further evidence or effect the intent of this Agreement.

(e) **Amendment.** This Agreement shall not be amended except by written instrument signed by the Senior Lender and the Subordinate Lender, and to the extent required by Section 6, the Borrower.

(f) **Governing Law.** This Agreement shall be governed by the laws of the State of Illinois.

(g) **Severable Provisions.** If any provision of this Agreement shall be invalid or unenforceable to any extent, then the other provisions of this Agreement, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

(h) **Servicer.** The Subordinate Lender acknowledges and agrees that Fannie Mae will designate Capri to act as Servicer for the First Mortgage Loan and will delegate certain functions to the Servicer with respect to the First Mortgage Loan Documents. To the extent that any provision of the First Mortgage Loan Documents require, on stipulated dates or upon request, the delivery of certain notices, documents, certificates, opinions, and financial or other information to or by Senior Lender, all such items shall instead be delivered to, by or at the request of, the Servicer. Fannie Mae reserves the unconditional right to replace the Servicer, with or without cause, with a substitute Servicer chosen by Fannie Mae in its sole discretion and reserves the right to instruct the Borrower or the Subordinate Lender to deliver notices, documents, certificates, opinions, and financial or other information directly to Fannie Mae or to such other Person as Fannie Mae may from time to time designate and to act in accordance with the instructions of Fannie Mae with respect to any such items or any other functions previously delegated to the Servicer under the First Mortgage Loan Documents.

(i) **Term.** The term of this Agreement shall commence on the date hereof and shall continue until the earliest to occur of the following events: (i) the payment of all of the principal of, interest on and other amounts payable under the First Mortgage Loan Documents; (ii) the payment of all of the principal of, interest on and other amounts payable under the Subordinate Mortgage Loan Documents; (iii) the acquisition by the Senior Lender of title to the Property pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale, if any, contained in) the First Mortgage and the simultaneous satisfaction, termination and cancellation of the First Mortgage Loan Documents; or (iv) the acquisition by the Subordinate Lender of title to the Property pursuant to a foreclosure, or a deed in lieu of foreclosure, of (or the exercise of a power of sale, if any, contained in) the Subordinate Mortgage and the simultaneous satisfaction, termination and cancellation of the Subordinate Mortgage Loan Documents.

(j) **Non-Recourse.** This Agreement is being executed in connection with the making of the First Mortgage Loan pursuant to the terms of the First Mortgage Note and the making of the Subordinate Mortgage Loan pursuant to the terms of the Subordinate Mortgage Note. Borrower's liability hereunder (and pursuant to any release provided pursuant to Section 4(f) above) to Senior Lender shall be limited to the same extent as provided in the First Mortgage Note and Borrower's liability hereunder to Subordinate Lender shall be limited to the same extent as provided in the Subordinate Mortgage Note. For purposes of giving effect to this provision, this Agreement shall be recognized by the Senior Lender as a First Mortgage Loan Document and by the Subordinate Lender as a Subordinate Mortgage Loan Document. As to the Senior Lender, nothing in this Agreement shall be deemed to modify the limitations on the Borrower's liability set forth in the First Mortgage Loan Documents and, as to the Subordinate Lender, nothing in this Agreement shall be deemed to modify the limitations on the Borrower's liability set forth in the Subordinate Mortgage Loan Documents.

(k) **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original for all purposes; provided, however, that all such counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY BLANK]




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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

SENIOR LENDER:

CAPRI CAPITAL DUS, LLC, a Delaware limited liability company

By:   
Robert L. Moore, Jr.  
Vice Chairman

## ACKNOWLEDGMENT

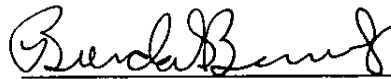
COMMONWEALTH OF VIRGINIA)

CITY/COUNTY of Arlington) ss:

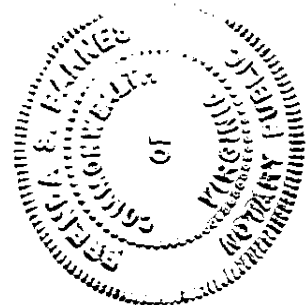
I, Brenda S. Burned, a Notary Public in and for the aforesaid jurisdiction, DO HEREBY CERTIFY that Robert L. Moore, Jr. personally known to me to be the Vice Chairman of Capri Capital DUS, LLC, a Delaware limited liability company and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such ~~Executive Vice President~~ <sup>Chairman</sup> she signed and delivered the said instrument, as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

IMPRESS SEAL HERE

Given under my hand and official seal, this 1<sup>st</sup> day of March, 2000.

  
Notary Public

Commission expires My Commission Expires July 31, 2002





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Property of Cook County Clerk's Office



BORROWER:

EUGENIE TERRACE ASSOCIATES,  
L.L.C., an Illinois limited liability company

By: [Signature]  
Terry A. McKay  
Manager

Property of Cook County Clerk's Office

ACKNOWLEDGMENT

STATE OF ILLINOIS )

) ss.

COUNTY of COOK )

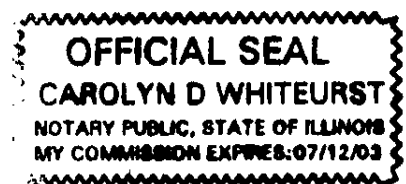
I, Carolyn Whiteurst, a Notary Public in and for the said County, in the State aforesaid, DO HEREBY CERTIFY that Terry A. McKay personally known to me to be the Manager of Eugenie Terrace Associates, L.L.C., an Illinois limited liability company and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that as such Manager, he signed and delivered the said instrument as the free and voluntary act and deed of said limited liability company for the uses and purposes therein set forth.

IMPRESS SEAL HERE

Given under my hand and official seal, this 3<sup>rd</sup> day of March, 2000.

[Signature]  
Notary Public

Commission expires 7/12/03



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SCHEDULE I

00161366

**First Mortgage Loan Documents (all dated as of March 6, 2000 unless otherwise indicated):**

Multifamily Note executed by Borrower to the order of Senior Lender in the original principal amount of \$34,500,000, together with the Acknowledgment and Agreement of Key Principal to Personal Liability for Exceptions to Non-Recourse Liability executed by Thomas B. Rosenberg, Terry A. McKay and Capital Associates Development Corp.;

Multifamily Mortgage, Assignment of Rents and Security Agreement executed by Borrower for the benefit of Senior Lender;

UCC Financing Statements (Cook County and Illinois Secretary of State filings) executed by Borrower, as Debtor, for the benefit of Senior Lender, as Secured Party;

Replacement/Reserve and Security Agreement executed between Borrower and Senior Lender;

Completion/Repair and Security Agreement executed between Borrower and Senior Lender;

Assignment of Management Agreement executed among Borrower, Senior Lender and CAMCO, Inc.;

Certificate of Borrower executed by Borrower for the benefit of Senior Lender; and

Agreement to Amend or Comply executed by Borrower for the benefit of Senior Lender.



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**SCHEDULE II**

**00161365**

**Subordinate Mortgage Loan Documents (all dated as of March 6, 2000 unless otherwise indicated):**

Secured Junior Promissory Note executed by Borrower to the order of Subordinate Lender in the original principal amount of \$35,380,000;

Junior Mortgage, Assignment of Rents and Security Agreement executed by Borrower for the benefit of Subordinate Lender;

Junior Assignment of Leases and Rents executed by Borrower for the benefit of Subordinate Lender;

UCC Financing Statement (Cook County and Illinois Secretary of State) executed by Borrower, as Debtor, to Subordinate Lender, as Secured Party;

Guaranty Agreement executed by Borrower, Capital Associates Development Corp., Terry A. McKay and Thomas B. Rosenberg for the benefit of Subordinate Lender;

Indemnification Agreement executed by Borrower, Capital Associates Development Corp., Terry A. McKay and Thomas B. Rosenberg for the benefit of Subordinate Lender;

Closing Certificate executed by Borrower for the benefit of Subordinate Lender;

ERISA Certificate executed by Borrower for the benefit of Subordinate Lender; and

Letter Agreement executed between Borrower and Subordinate Lender concerning the possible future execution of a Reserve Escrow Agreement.

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## EXHIBIT A

THE SUBJECT PROPERTY IS DESCRIBED BELOW AS PARCEL 1, WHICH LIES WITHIN A LARGER TRACT OF LAND (THE "LARGER TRACT"). THE LARGER TRACT IS DESCRIBED AS FOLLOWS:

A TRACT OF LAND IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, COMPRISED OF SUNDRY LOTS IN NORTH ADDITION TO CHICAGO, IN COUNTY CLERK'S DIVISION OF THAT PORTION OF UNSUBDIVIDED LANDS LYING BETWEEN THE EAST LINE OF NORTH ADDITION AND THE WEST LINE OF NORTH CLARK STREET IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 33 AFORESAID, IN THE SUBDIVISION OF LOT 2 IN BLOCK "A" IN SAID COUNTY CLERK'S DIVISION, IN CLARK STREET ADDITION IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 33, IN JOHN C. ENDER'S SUBDIVISION OF THE EAST 60.00 FEET OF SUBJECTS 4 AND 5 OF LOTS 7 AND 8 AND OF LOT 6 NORTH OF EUGENIE STREET IN NORTH ADDITION TO CHICAGO; AND IN ADOLPH OLSEN'S SUBDIVISION OF PART OF LOTS 6 AND 7 IN SAID NORTH ADDITION, TO CHICAGO; WHICH TRACT OF LAND IS BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 10 IN SAID NORTH ADDITION TO CHICAGO, AND RUNNING THENCE EAST ALONG THE NORTH LINE OF SAID LOT 10 AND ALONG THE NORTH LINE OF LOT 1 IN THE SUBDIVISION OF LOT 2 IN BLOCK "A" AFORESAID, A DISTANCE OF 289.80 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTHEASTWARDLY ALONG THE EASTERLY LINE OF SAID LOT 1, ALONG THE EASTERLY LINE OF LOTS 1, 2, 3 AND 4 IN SAID CLARK STREET ADDITION, AND ALONG THE EASTERLY LINE OF LOTS 6 AND 7 IN THE SUBDIVISION OF LOT 2 IN BLOCK "A" AFORESAID, A DISTANCE OF 164.13 FEET TO A DEFLECTION POINT IN THE EAST LINE OF SAID LOT 7; THENCE SOUTH ALONG THE EAST LINE OF LOTS 7, 8 AND 9 IN THE SUBDIVISION OF LOT 2 IN BLOCK "A" AFORESAID AND ALONG THE EAST LINE OF LOTS 3, 4, 5, 6, 7, 8, 9 AND 10 IN SAID BLOCK "A", A DISTANCE OF 257.22 FEET TO THE SOUTHEAST CORNER OF SAID LOT 10; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 10 IN BLOCK "A"; ALONG THE SOUTH LINE OF LOTS 1 AND 2 IN SAID ENDER'S SUBDIVISION; AND ALONG THE SOUTH LINE OF LOTS 12, 11, 10 AND 9 IN SAID ADOLPH OLSEN'S SUBDIVISION A DISTANCE OF 250.65 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 9, A DISTANCE OF 80.05 FEET TO THE SOUTHEAST CORNER OF LOT 3 IN SAID ADOLPH OLSEN'S SUBDIVISION; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 3, A DISTANCE OF 95.08 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; AND THENCE NORTH ALONG THE WEST LINE OF LOTS 3, 2 AND 1 IN SAID ADOLPH OLSEN'S SUBDIVISION AND ALONG THE WEST LINE OF LOTS 7, 8, 9 AND 10, IN SAID NORTH ADDITION TO CHICAGO, A DISTANCE OF 328.14 FEET TO THE POINT OF BEGINNING.

PARCEL 1 (HIGH RISE AND PARKING STRUCTURES):

(HIGH RISE STRUCTURE)

A PART OF THE LAND, PROPERTY AND SPACE LYING WITHIN THE TRACT OF LAND HEREINBEFORE DESCRIBED, WHICH PART OF SAID LAND, PROPERTY AND SPACE IS BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT, AND RUNNING THENCE SOUTHEASTWARDLY ALONG THE NORTHEASTERLY LINE OF SAID TRACT (BEING ALSO THE SOUTHWESTERLY LINE OF N. CLARK STREET) A DISTANCE OF 38.00 FEET, TO AN INTERSECTION WITH A LINE WHICH IS 34.90 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, BEING THE POINT OF BEGINNING FOR THAT PART HEREINAFTER

DESCRIBED; THENCE CONTINUING SOUTHEASTWARDLY ALONG THE NORTHEASTERLY LINE OF SAID TRACT, A DISTANCE OF 126.13 FEET TO A DEFLECTION POINT IN SAID LINE; THENCE SOUTH ALONG THE EAST LINE OF THE AFORESAID TRACT OF LAND (BEING ALSO THE WEST LINE OF N. LASALLE STREET) A DISTANCE OF 71.40 FEET TO AN INTERSECTION WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT; THENCE ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO THE NORTH LINE OF SAID TRACT OF LAND, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: WEST 68.84 FEET; NORTH 5.00 FEET; WEST 112.71 FEET; NORTH 20.00 FEET; WEST 20.00 FEET TO AN INTERSECTION WITH A LINE WHICH IS PERPENDICULAR TO THE NORTH LINE OF SAID TRACT AT A POINT, WHICH IS 144.16 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE ALONG SAID PERPENDICULAR LINE AND ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO THE AFORESAID NORTH LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: NORTH 143.14 FEET; EAST 126.68 FEET; NORTH 19.10 FEET TO THE AFORESAID LINE WHICH IS 34.90 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND THENCE EAST ALONG SAID LAST DESCRIBED PARALLEL LINE, A DISTANCE OF 25.00 FEET TO THE POINT OF BEGINNING.

ALSO

(PARKING STRUCTURE - NORTH EXTENSION)

THAT PART OF THE LAND, PROPERTY AND SPACE IN SAID TRACT OF LAND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 17.83 FEET ABOVE CHICAGO CITY DATUM, AND WHICH PART OF SAID LAND, PROPERTY AND SPACE LIES WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE NORTH LINE OF THE AFOREMENTIONED TRACT OF LAND AT A POINT WHICH IS 144.16 FEET EAST OF THE NORTHWEST CORNER THEREOF, AND RUNNING THENCE SOUTH ALONG A LINE WHICH IS PERPENDICULAR TO SAID NORTH LINE, A DISTANCE OF 36.02 FEET, TO THE POINT OF BEGINNING FOR THAT PART OF SAID TRACT HEREINAFTER DESCRIBED: THENCE CONTINUING SOUTH ALONG LAST DESCRIBED PERPENDICULAR LINE, A DISTANCE OF 161.12 FEET; THENCE ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO THE AFORESAID NORTH LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: EAST 20.00 FEET; SOUTH 20.00 FEET; WEST 88.00 FEET; NORTH 181.12 FEET; AND EAST 58.00 FEET TO THE POINT OF BEGINNING.

ALSO

(PARKING STRUCTURE - BASEMENT LEVEL)

THAT PART OF THE LAND, PROPERTY AND SPACE IN SAID TRACT OF LAND, LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 15.92 FEET ABOVE CHICAGO CITY DATUM, AND WHICH PART OF SAID LAND, PROPERTY AND SPACE LIES WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID TRACT (BEING ALSO THE WEST LINE OF N. LASALLE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 10.09 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE SOUTH ALONG A LINE PERPENDICULAR TO LAST

DESCRIBED COURSE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: SOUTH 151.50 FEET; WEST 11.33 FEET; SOUTH 24.33 FEET; WEST 38.34 FEET; NORTH 2.00 FEET; WEST 190.99 FEET TO AN INTERSECTION WITH A WEST LINE OF SAID TRACT OF LAND, AT A POINT WHICH IS 12.16 FEET NORTH OF THE SOUTH LINE OF SAID TRACT (BEING ALSO THE NORTH LINE OF W. EUGENIE STREET); THENCE NORTH ALONG SAID WEST LINE, A DISTANCE OF 67.89 FEET TO A CORNER IN SAID WEST LINE; THENCE WEST ALONG A SOUTH LINE OF SAID TRACT OF LAND, A DISTANCE OF 83.08 FEET TO A POINT WHICH IS 12.00 FEET EAST FROM THE WEST LINE OF SAID TRACT (BEING ALSO THE EAST LINE OF N. WELLS STREET); THENCE NORTH ALONG A LINE WHICH IS PERPENDICULAR TO THE NORTH LINE OF SAID TRACT, A DISTANCE OF 116.21 FEET TO AN INTERSECTION WITH A LINE WHICH IS 211.92 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT; THENCE EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 64.27 FEET TO AN INTERSECTION WITH A LINE WHICH IS PERPENDICULAR TO THE NORTH LINE OF SAID TRACT, AT A POINT WHICH IS 76.16 FEET EAST OF THE NORTHWEST CORNER, THEREOF; THENCE ALONG SAID PERPENDICULAR LINE AND ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO THE AFORESAID NORTH LINE, THE FOLLOWING COURSES AND DISTANCES: SOUTH 5.22 FEET; EAST 200.71 FEET; SOUTH 5.00 FEET, AND EAST 58.75 FEET TO THE POINT OF BEGINNING.

ALSO

(PARKING STRUCTURE - STREET AND SECOND LEVEL)

THAT PART OF THE LAND, PROPERTY AND SPACE IN SAID TRACT OF LAND HEREINBEFORE DESCRIBED, LYING ABOVE SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 15.92 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM AND WHICH LIES WITHIN THE VERTICAL PROJECTION OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID TRACT, (BEING ALSO THE WEST LINE OF N. LAFAYETTE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG THE SAID PARALLEL LINE, A DISTANCE OF 41.09 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH THE NORTH LINE OF SAID TRACT, THE FOLLOWING COURSES AND DISTANCES: SOUTH 150.50 FEET; WEST 18.00 FEET; NORTH 7.67 FEET; WEST 75.66 FEET; NORTH 6.42 FEET; WEST 9.00 FEET; NORTH 1.58 FEET; WEST 6.57 FEET; SOUTH 8.00 FEET; WEST 100.43 FEET TO AN INTERSECTION WITH A WEST LINE OF SAID TRACT OF LAND, AT A POINT WHICH IS 43.16 FEET NORTH OF THE SOUTH LINE OF SAID TRACT (BEING ALSO THE NORTH LINE OF W. EUGENIE STREET); THENCE NORTH ALONG SAID WEST LINE A DISTANCE OF 36.89 FEET TO A CORNER IN SAID WEST LINE: THENCE WEST ALONG A SOUTH LINE OF SAID TRACT OF LAND A DISTANCE OF 52.08 FEET TO A POINT WHICH IS 43.00 FEET EAST FROM THE WEST LINE OF SAID TRACT (BEING ALSO THE EAST LINE OF N. WELLS STREET); THENCE CONTINUING ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH THE NORTH LINE OF SAID TRACT, THE FOLLOWING COURSES AND DISTANCES: NORTH 91.14 FEET; EAST 6.83 FEET; NORTH 14.83 FEET; EAST 2.17 FEET, AND NORTH 10.22 FEET TO AN INTERSECTION WITH A LINE WHICH IS 211.92 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT; THENCE EAST ALONG SAID PARALLEL LINE, A DISTANCE

OF 24.27 FEET TO AN INTERSECTION WITH A LINE WHICH IS PERPENDICULAR TO THE NORTH LINE OF SAID TRACT, AT A POINT WHICH IS 76.16 FEET EAST OF THE NORTHWEST CORNER THEREOF; THENCE ALONG SAID PERPENDICULAR LINE AND ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO AFORESAID NORTH LINE, THE FOLLOWING COURSES AND DISTANCES: SOUTH 5.22 FEET; EAST 200.71 FEET; SOUTH 5.00 FEET, AND EAST 27.75 FEET TO THE POINT OF BEGINNING.

ALSO

(STAIR NO. 1 - TERRACE LEVEL)

A PART OF THE PROPERTY AND SPACE, TO BE OCCUPIED BY A STAIRWAY AT THE TERRACE LEVEL OF THE GARAGE STRUCTURE, IN THE "TRACT" HEREINBEFORE DESCRIBED, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 48.00 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID "TRACT", BEING ALSO THE WEST LINE OF N. LASALLE STREET, AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID "TRACT", AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 84.76 FEET; THENCE SOUTH ALONG A LINE WHICH IS PERPENDICULAR TO SAID LAST DESCRIBED COURSE, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING SOUTH ALONG SAID PERPENDICULAR LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: SOUTH 14.00 FEET; EAST 8.67 FEET; NORTH 14.00 FEET, AND WEST 8.67 FEET TO THE POINT OF BEGINNING.

ALSO

(STAIR NO. 4 - TERRACE LEVEL)

A PART OF THE PROPERTY AND SPACE, TO BE OCCUPIED BY A STAIRWAY AT THE TERRACE LEVEL OF THE GARAGE STRUCTURE IN THE "TRACT" HEREINBEFORE DESCRIBED, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 38.00 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE WEST LINE OF SAID "TRACT", BEING ALSO THE EAST LINE OF NORTH WELLS STREET, AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 211.92 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID "TRACT", AND RUNNING THENCE EAST ALONG SAID PARALLEL LINE A DISTANCE OF 42.79 FEET; THENCE SOUTH ALONG A LINE WHICH IS PERPENDICULAR TO SAID LAST DESCRIBED COURSE, A DISTANCE OF 10.22 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING SOUTH ALONG SAID PERPENDICULAR LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: SOUTH 14.83 FEET; EAST 8.67 FEET; NORTH 14.83 FEET, AND WEST 8.67 FEET TO THE POINT OF BEGINNING.

ALSO



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(BASEMENT EXHAUST SHAFT - TERRACE LEVEL)

A PART OF THE PROPERTY AND SPACE TO BE OCCUPIED BY AN EXHAUST SHAFT AT THE TERRACE LEVEL OF THE GARAGE STRUCTURE IN THE "TRACT" HEREINBEFORE DESCRIBED, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID "TRACT", BEING ALSO THE WEST LINE OF N. LASALLE STREET AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 358.55 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID "TRACT", AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 134.68 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING ALONG SAID PARALLEL LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: WEST 9.00 FEET; NORTH 6.00 FEET; EAST 9.00 FEET, AND SOUTH 6.00 FEET TO THE POINT OF BEGINNING.

EXCEPTING THEREFROM THAT PART OF SAID LAND, PROPERTY AND SPACE TO BE OCCUPIED BY A TOWNHOUSE ELEVATOR SHAFT AND EQUIPMENT ROOM AT THE BASEMENT LEVEL OF SAID GARAGE STRUCTURE LYING BELOW SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 17.83 FEET ABOVE CHICAGO CITY DATUM AND LYING WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID TRACT (BEING ALSO THE WEST LINE OF N. LASALLE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 68.84 FEET; THENCE SOUTH ALONG A LINE PERPENDICULAR TO LAST DESCRIBED COURSE, A DISTANCE OF 15.00 FEET, TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING ALONG SAID PERPENDICULAR LINE, AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE THE FOLLOWING COURSES AND DISTANCES: SOUTH 19.67 FEET; WEST 9.00 FEET; NORTH 16.33 FEET; WEST 6.42 FEET; NORTH 3.34 FEET, AND EAST 15.42 FEET TO THE POINT OF BEGINNING.

ALSO

EXCEPTING THEREFROM THAT PART OF SAID LAND, PROPERTY AND SPACE TO BE OCCUPIED BY A TOWNHOUSE ELEVATOR SHAFT AND EQUIPMENT ROOM AT THE BASEMENT LEVEL OF SAID GARAGE STRUCTURE LYING BELOW SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 15.92 FEET ABOVE CHICAGO CITY DATUM LYING WITHIN THE VERTICAL PROJECTION OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID TRACT (BEING ALSO THE WEST LINE OF N. LASALLE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 358.55 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 134.68 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING ALONG SAID PARALLEL LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, THE FOLLOWING COURSES AND DISTANCES: WEST 9.00 FEET; SOUTH 17.09 FEET; EAST 9.00 FEET; NORTH 17.09 FEET TO THE POINT OF BEGINNING.

ALSO

EXCEPTING THEREFROM THAT PART OF SAID LAND, PROPERTY AND SPACE TO BE OCCUPIED BY

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A TOWNHOUSE ELEVATOR SHAFT AND EQUIPMENT ROOM AT THE BASEMENT LEVEL OF SAID GARAGE STRUCTURE LYING BELOW SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 15.92 FEET ABOVE CHICAGO CITY DATUM, AND LYING WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE WEST LINE OF SAID TRACT (BEING ALSO THE EAST LINE OF N. WELLS STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 211.92 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE EAST ALONG SAID PARALLEL LINE, A DISTANCE OF 32.96 FEET, TO THE POINT OF BEGINNING, FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING ALONG SAID PARALLEL LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES: EAST 19.00 FEET; SOUTH 10.22 FEET; WEST 2.17 FEET; SOUTH 14.83 FEET; WEST 6.83 FEET; NORTH 14.14 FEET; WEST 4.33 FEET; NORTH 3.66 FEET; WEST 5.67 FEET, AND NORTH 7.25 FEET TO THE POINT OF BEGINNING.

ALSO

EXCEPTING THEREFROM THAT PART OF SAID LAND, PROPERTY AND SPACE TO BE OCCUPIED BY A TOWNHOUSE ELEVATOR SHAFT, LOBBY AND RUBBISH ROOM AT THE STREET LEVEL OF SAID GARAGE STRUCTURE LYING ABOVE SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 17.83 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 26.00 FEET ABOVE CHICAGO CITY DATUM, AND WHICH LIES WITHIN THE VERTICAL PROJECTIONS OF THE BOUNDARIES HEREINAFTER DESCRIBED: COMMENCING ON THE EAST LINE OF SAID TRACT, (BEING ALSO THE WEST LINE OF N. LASALLE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 68.84 FEET; THENCE SOUTH ALONG A LINE PERPENDICULAR TO LAST DESCRIBED COURSE, A DISTANCE OF 5.00 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING SOUTH ALONG SAID PERPENDICULAR LINE, A DISTANCE OF 29.50 FEET; THENCE SOUTHWESTWARDLY ALONG A LINE WHICH FORMS AN ANGLE OF 45 DEGREES 00 MINUTES FROM SOUTH TO WEST WITH LAST DESCRIBED LINE, A DISTANCE OF 7.31 FEET; THENCE WEST ALONG A STRAIGHT LINE A DISTANCE OF 7.92 FEET; THENCE NORTHWESTWARDLY ALONG A LINE WHICH FORMS AN ANGLE OF 45 DEGREES 00 MINUTES FROM WEST TO NORTH WITH SAID LAST DESCRIBED LINE, A DISTANCE OF 4.00 FEET; THENCE NORTH ALONG A LINE WHICH IS PARALLEL WITH AND 15.92 FEET WEST OF THE FIRST DESCRIBED PERPENDICULAR LINE, A DISTANCE OF 2.34 FEET; THENCE ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH AFORESAID PERPENDICULAR LINE, THE FOLLOWING COURSES AND DISTANCES: EAST 6.92 FEET; NORTH 16.33 FEET; WEST 6.42 FEET; NORTH 3.34 FEET; EAST 8.17 FEET; NORTH 9.85 FEET; AND EAST 7.25 FEET TO THE POINT OF BEGINNING.

ALSO

EXCEPTING THEREFROM THAT PART OF THE LAND, PROPERTY AND SPACE TO BE OCCUPIED AS A RUBBISH ROOM IN SAID PARKING STRUCTURE, LYING ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF 17.83 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW A HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM, AND WHICH PART LIES WITHIN THE VERTICAL PROJECTION OF THE BOUNDARIES DESCRIBED AS FOLLOWS: COMMENCING ON THE EAST LINE OF SAID "TRACT", BEING ALSO THE WEST LINE OF N.

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LASALLE STREET, AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 346.47 FEET SOUTH OF AND PARALLEL WITH THE NORTH LINE OF SAID "TRACT", AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 134.68 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE CONTINUING ALONG SAID PARALLEL LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, THE FOLLOWING COURSES AND DISTANCES: WEST 9.67 FEET; SOUTH 6.08 FEET; EAST 9.67 FEET, AND NORTH 6.08 FEET TO THE POINT OF BEGINNING.

ALSO

EXCEPTING THEREFROM THAT PART OF SAID LAND, PROPERTY AND SPACE TO BE OCCUPIED BY A TOWNHOUSE ELEVATOR SHAFT, LOBBY, RUBBISH ROOM AND POOL EQUIPMENT STORAGE AREA AT THE SECOND LEVEL OF SAID GARAGE STRUCTURE LYING ABOVE SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 26.00 FEET ABOVE CHICAGO CITY DATUM AND LYING BELOW SAID HORIZONTAL PLANE HAVING AN ELEVATION OF 34.00 FEET ABOVE CHICAGO CITY DATUM AND WHICH LIES WITHIN THE VERTICAL PROJECTION OF THE BOUNDARIES HEREINAFTER DESCRIBED: COMMENCING ON THE EAST LINE OF SAID TRACT (BEING ALSO THE WEST LINE OF N. LASALLE STREET) AT THE INTERSECTION OF SAID LINE WITH A LINE WHICH IS 222.14 FEET SOUTH FROM AND PARALLEL WITH THE NORTH LINE OF SAID TRACT, AND RUNNING THENCE WEST ALONG SAID PARALLEL LINE, A DISTANCE OF 41.09 FEET TO THE POINT OF BEGINNING FOR THAT PART HEREINAFTER DESCRIBED: THENCE ALONG SAID PARALLEL LINE AND ALONG LINES WHICH ARE PERPENDICULAR TO OR PARALLEL WITH SAID LINE, RESPECTIVELY, THE FOLLOWING COURSES AND DISTANCES; WEST 35.00 FEET; SOUTH 14.83 FEET; WEST 8.17 FEET; SOUTH 3.34 FEET; EAST 6.42 FEET; SOUTH 16.33 FEET; WEST 6.92 FEET; AND THENCE SOUTHEASTWARDLY ALONG A LINE WHICH FORMS AN ANGLE OF 45 DEGREES 00 MINUTES FROM EAST TO SOUTH WITH LAST DESCRIBED COURSE A DISTANCE OF 5.66 FEET; THENCE EAST 4.00 FEET; THENCE NORTHEASTWARDLY ALONG A LINE WHICH FORMS AN ANGLE OF 45 DEGREES 00 MINUTES FROM EAST TO NORTH WITH LAST DESCRIBED COURSE, A DISTANCE OF 5.66 FEET; THENCE ALONG LINES WHICH ARE PARALLEL WITH OR PERPENDICULAR TO FIRST DESCRIBED PARALLEL LINE THE FOLLOWING COURSES AND DISTANCES; EAST 3.92 FEET; NORTH 19.67 FEET; EAST 9.75 FEET; SOUTH 13.67 FEET; EAST 18.00 FEET, AND NORTH 28.50 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

TOGETHER WITH PERPETUAL EASEMENTS FOR STRUCTURAL SUPPORT, FACILITIES, ENCROACHMENTS, PEDESTRIAN AND VEHICULAR INGRESS AND EGRESS, MAINTENANCE AND REPAIRS, AND ALL OTHER RIGHTS SET FORTH IN THE DECLARATION OF AND AGREEMENT FOR COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS DATED AS OF MAY 1, 1986, AND RECORDED JUNE 19, 1986, AMONG THE LAND RECORDS OF COOK COUNTY, ILLINOIS, AS INSTRUMENT NUMBER 86251239.

TAX NUMBERS 14-33-414-033, 14-33-414-034, 14-33-414-053, 14-33-414-046 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-047 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-048 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-049 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-050 (AFFECTS PART OF THE

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UNDERLYING LAND), 14-33-414-052, 14-33-414-056 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-057 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-058 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-059 (AFFECTS PART OF THE UNDERLYING LAND), 14-33-414-060 (AFFECTS PART OF THE UNDERLYING LAND) AND 14-33-414-061 (AFFECTS PART OF THE UNDERLYING LAND) VOLUME 496.

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