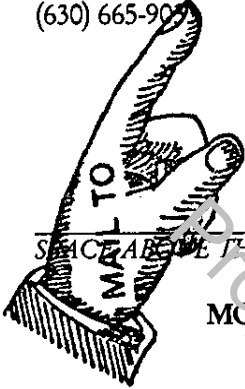


This instrument was prepared by
and after recording mail to:

Mark F. Kalina
GUERARD, KALINA & BUTKUS
100 West Roosevelt Road, Suite A-1
Wheaton, Illinois 60187
(630) 665-9000



SPACE ABOVE THIS LINE FOR RECORDER'S USE ONLY

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**MORTGAGE, ASSIGNMENT OF RENTS, SECURITY AGREEMENT
AND FINANCING STATEMENT**

THIS MORTGAGE (herein "Instrument") is made this 17th day of April 2002 by the
Mortgagor, POND VIEW DRIVE ASSOCIATES, L.P., an Illinois limited partnership whose address is 760
North Frontage Road, Suite 103, Willowbrook, Illinois, 60521 (herein "Borrower"), in favor of Mortgagee,
FIRST UNITED BANK, whose address is 7626 W. Lincoln Highway, Frankfort, Illinois 60423 (herein
"Lender").

WHEREAS, Borrower is or may become indebted to Lender in the principal sum of TWO
MILLION SIXTY THREE THOUSAND FIVE HUNDRED SEVENTY ONE AND NO/100
(\$2,063,571.00) DOLLARS, or so much thereof as may have been advanced or made available pursuant to the
terms of a Construction Loan and Security Agreement of even date herewith by and between Borrower and
Lender, which indebtedness is evidenced by Borrower's Promissory Note of even date herewith in the amount
of \$2,063,571.00 (the "Note").

TO SECURE TO LENDER (a) repayment of the principal interest, and all other amounts payable
to Lender on the Note according to its tenor and effect, and all renewals, extensions and modifications thereof;
(b) the payment of all other sums, with interest thereon, advanced in accordance herewith to protect the security
of this Instrument; and (c) the performance and observance of all the covenants, provisions and agreements of
Borrower herein and in the Note contained and of any guarantor under any guaranty of other instrument given
to further secure the performance of any obligation secured hereby, (provided, however, that the aggregate amount
secured by this Instrument shall not exceed 300% of the face amount of the Note) and in consideration of the premises and
Ten and 00/100 (\$10.00) Dollars in hand paid and for other good and valuable consideration, the receipt and
sufficiency of which is hereby acknowledged by Borrower, Borrower does hereby mortgage, grant, convey and
assign to Lender all of Borrower's right, title, and interest in the real estate legally described in Exhibit "A"
attached hereto and made a part hereof.

TOGETHER with all buildings, improvements, and tenements now or hereafter erected on the
property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements,
rights, appurtenances, rents, royalties, mineral, oil and gas rights and profits, water, water rights, and water stock
appurtenant to the property, and all fixtures, machinery, equipment, engines, boilers, incinerators, appliances and
goods of every nature whatsoever now or hereafter located in, or on, or used, or intended to be used in
connection with the Property including, but not limited to, those for the purpose of supplying or distributing
heating, cooling, electricity, gas, water, air and light; and all elevators, and related machinery and equipment, fire

THIS MORTGAGE SECURES A NOTE THAT HAS A VARIABLE RATE FEATURE

P.N.T.N.

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annual accounting of the Funds in Lender's normal format showing credits and debits to the Funds and the purpose for which each debit to the Funds was made. The Funds are pledged as additional security for the sums secured by this Instrument.

If the amount of the Funds held by Lender at the time of the annual accounting thereof shall exceed the amount deemed necessary by Lender to provide for the payment of taxes, assessments, insurance premiums, and Other Impositions as they fall due, such excess shall be credited to Borrower on the next monthly installment or installments of Funds due. If at any time the amount of the Funds held by Lender shall be less than the amount deemed necessary by Lender to pay taxes, assessments, insurance premiums, rents and Other Impositions as they fall due, Borrower shall pay to Lender an amount necessary to make up the deficiency within thirty days after notice from Lender to Borrower requesting payment thereof.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may apply, in any amount and in any order as Lender shall determine in Lender's sole discretion, any Funds held by Lender at the time of application (i) to pay rates, rents, taxes, assessments, insurance premiums and Other Impositions which are now or will hereafter become due, or (ii) as a credit against sums secured by this Instrument. Upon payment in full of all sums secured by this Instrument, Lender shall refund to Borrower any Funds held by Lender.

Notwithstanding the foregoing, Lender temporarily suspends the requirement of the deposit of Funds for the payment of taxes, assessments, and insurance upon the condition that (a) Borrower pay all such amounts directly on or before the due dates thereof and furnish Lender with evidence of such payments within five business days of the due dates thereof, and (b) Borrower is not in breach of any covenant or agreement of Borrower in this Instrument. Lender reserves the right to reinstate the requirement of the periodic deposit of Funds with Lender upon the failure of either of the foregoing conditions.

3. Application of Payments. Unless applicable law provides otherwise, all payments received by Lender from Borrower under the Note or this Instrument shall be applied by Lender in the following order of priority: (i) amounts payable to Lender by Borrower under paragraph 2 hereof; (ii) interest payable on the Note; (iii) interest payable on advances made pursuant to paragraph 8 hereof; (v) principal of the Note; and (vi) any other sums secured by this Instrument in such order as Lender, at Lender's option, may determine; provided, however, that Lender may, at Lender's option, apply any sums payable pursuant to paragraph 8 hereof prior to interest on and principal of the Note, but such application shall not otherwise affect the order of priority of application specified in this paragraph 3.

4. Charges; Liens. Borrower shall pay all taxes, assessments, and other charges, fines and impositions attributable to the Property which may attain a priority over this Instrument and leasehold payment of ground rents, if any, in the manner provided under paragraph 2 hereof or, if not paid in such manner, by Borrower making payments when due, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and in the event Borrower shall make payment directly, Borrower shall promptly furnish Lender receipts evidencing such payments. Borrower shall promptly discharge any lien which has priority over this Instrument; provided, that Borrower shall not be required to discharge any such lien so long as Borrower: (a) shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender; (b) shall in good faith contest such lien by, or defend against enforcement of the lien in, legal proceedings which in the opinion of Lender operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof; or (c) shall secure from the holder of such lien an agreement in a form satisfactory to Lender subordinating such lien to this Instrument.

If Lender determines that all or any part of the Property is subject to a lien which may attain a priority over this Instrument, Lender may send Borrower notice identifying such lien. Borrower shall satisfy such lien or take more of the actions set forth above within ten (10) days of the giving of notice.

5. Insurance. Borrower shall keep all improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and any other hazards for which Lender requires insurance. In the event the Property is or at any time hereafter may be designated to be in a flood hazard area, Borrower agrees to maintain flood insurance policies in form and amounts satisfactory to Lender and issued by companies approved by Lender. All premiums on insurance policies shall be paid, at Lender's option, in the manner under paragraph 2 hereof, or by Borrower making payments, when due, directly to the carrier, or in such other manner as Lender may designate in writing.

All insurance policies and renewals thereof shall be in a form acceptable to Lender and shall include a standard mortgage clause in favor of and in form acceptable to Lender. All such policies shall require thirty (30) days advance notice to Lender in the event of non-renewal or cancellation. Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least thirty days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender.

6. Preservation and Maintenance of Property. Borrower (a) shall not waste or permit impairment or deterioration of the Property, (b) shall not abandon the Property, (c) shall restore or repair promptly and in a good workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances thereto in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, and (f) shall give notice in writing to Lender of and, unless otherwise directed by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind or with the prior written consent of Lender.

7. Use of Property. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

8. Protection of Lender's Security. If Borrower fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, then Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursements of attorneys fees, (ii) entry upon the Property to make repairs, and (iii) procurement of satisfactory insurance as provided in paragraph 5 hereof. Any amounts disbursed by Lender pursuant to this paragraph 8, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other

terms of payment, such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the default rate stated in the Note. Borrower hereby covenants and agrees that Lender shall be subrogated to the lien of any mortgage or other lien discharged, in whole or in part, by the indebtedness secured hereby. Nothing contained in this paragraph 8 shall require Lender to incur any expense or take any action hereunder.

9. Inspection. Lender may make or cause to be made reasonable entries upon and inspections of the Property.

10. Books and Records. Borrower shall keep and maintain at all times at Borrower's address stated below, or such other place as Lender may approve, complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender. Borrower shall, within ninety (90) days after the end of each fiscal year of Borrower, furnish to Lender financial and operating statements of the Property for such fiscal year, in reasonable detail, and in any event including such itemized statements of receipts and disbursements as shall enable Lender to determine whether a breach described in paragraph 25 or other default hereunder ("Event of Default") then exists. Such financial and operating statements shall be prepared at Borrower's expense in a manner acceptable to Lender, and shall include a statement as to whether or not an Event of Default exists hereunder.

11. Condemnation. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyance in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's expenses incurred in the collection of such amounts, at Lender's option, to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order of application set forth in paragraph 3 hereof, with the balance, if any, to Borrower. Any application of proceeds to principal shall not be subject to any prepayment penalty and, unless Borrower and Lender otherwise agree in writing, shall not extend or postpone the due date of the monthly installments referred to in paragraphs 1 and 2 hereof or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may require.

12. Borrower and Lien Not Released. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholders or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, modify the terms and time of payment of said indebtedness, release from the lien of this Instrument any part of the Property, take or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any

extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder. Any actions taken by Lender pursuant to the terms of this paragraph 12 shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for the payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and attorneys' fees as may be incurred at Lender's option, for any action if taken at Borrower's request.

13. Forbearance by Lender Not a Waiver. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument, nor shall Lender's receipt of any awards, proceeds or damages under paragraphs 5 and 11 hereof operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

14. Estoppel Certificate. Borrower shall within ten days of a written request from Lender provide Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument.

15. Uniform Commercial Code Security Agreement. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Property which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Property. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproduction of this Instrument in any form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon Borrower's breach of any covenant or agreement of Borrower contained in this Instrument, including the covenant to pay when due all sums secured by this Instrument, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided in paragraph 25 of this Instrument as to such items. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided in paragraph 25 of this Instrument.

16. Leases of the Property. Borrower shall comply with and observe Borrower's obligations as landlord under all leases of the Property or any part thereof. Borrower, at Lender's request, shall furnish Lender with executed copies of all leases now existing or hereafter made of all or any part of the Property, and all leases

now or hereafter entered into will be in form and substance subject to the approval of Lender. All leases of the Property shall specifically provide that such leases are subordinated to this Instrument; that the tenant attorns to Lender, such attornment to be effective upon Lender's acquisition of title to the Property; that the tenant agrees to execute such further evidences of attornment as Lender may from time to time request; that the attornment of the tenant shall not be terminated by foreclosure; and that Lender may, at Lender's option, accept or reject such attornments. Borrower shall not, without Lender's written consent, execute, modify, surrender or terminate, either orally or in writing, any lease now existing or hereafter made of all or any part of the Property, permit an assignment or sublease of such a lease without Lender's written consent, or request or consent to the subordination of any lease of all or any part of the Property to any lien subordinate to this Instrument. If Borrower becomes aware that any tenant proposes to do, or is doing, any act or thing which may give rise to any right of set-off against rent, Borrower shall (i) take such steps as shall be reasonably calculated to prevent the accrual of any right to a set-off against rent, (ii) notify Lender thereof and of the amount of said set-offs, and (iii) within ten days after such accrual, reimburse the tenant who shall have acquired such right to set-off or take such other steps as shall effectively discharge such set-off and as shall assure that rents thereafter due shall continue to be payable without set-off or deduction.

Upon Lender's request, Borrower shall assign to Lender, by written instrument satisfactory to Lender, all leases now existing or hereafter made of all or any part of the Property and all security deposits made by tenants in connection with such leases of the Property. Upon assignment by Borrower to Lender of any leases of the Property, Lender shall have all of the rights and powers possessed by Borrower prior to such assignment and Lender shall have the right to modify, extend or terminate such existing leases and to execute new leases, in Lender's sole discretion.

17. Acceleration in Case of Borrower's Insolvency. If Borrower shall voluntarily file a petition under the Federal Bankruptcy Code, as such Code may from time to time be amended, or under similar or successor Federal statute relating to bankruptcy, insolvency, arrangements or reorganizations, or under any state bankruptcy or insolvency act, or file an answer in any involuntary proceeding admitting insolvency or inability to pay debts, or if Borrower shall fail to obtain a vacation or stay of involuntary proceedings brought for the reorganization, dissolution or liquidation of Borrower within sixty (60) days after the date such proceedings are initiated, or if Borrower shall be adjudged a bankrupt or if a trustee or receiver shall be appointed for Borrower or Borrower's property, or if the Property shall become subject to the jurisdiction of a Federal bankruptcy court or similar state court, or if Borrower shall make an arrangement for the benefit of Borrower's creditors, or if there is an attachment, execution or other judicial seizure of any portion of Borrower's assets and such seizure is not discharged within ten days, then Lender may, at Lender's option, declare all the sums secured by this Instrument to be immediately due and payable without prior notice to Borrower, and Lender may invoke any remedies permitted by paragraph 25 of this Instrument. Any attorneys' fees and other expenses incurred by Lender in connection with Borrower's bankruptcy or any of the other aforesaid events shall be additional indebtedness of Borrower secured by this Instrument pursuant to paragraph 8 hereof. For purposes of this paragraph 17, the term "Borrower" shall include any beneficiary of Borrower if Borrower is a land trustee.

18. Restrictions on Transfer. Subject to the provisions of paragraph 4 hereof, it shall be an immediate breach of this Instrument if, without the prior written consent of the Lender, any of the following shall occur, and in any event the Lender may condition its consent upon such increase in rate of interest payable upon the Note, change in monthly payments thereon, change in maturity thereof and/or the payment of a fee, all as the Lender may in its sole discretion require:

- a. If the Borrower shall create, effect, contract for, commit to or consent to, or shall suffer or permit any conveyance, sale, assignment, transfer, lien, pledge, mortgage, security interest or other encumbrance or alienation of the Property or any part thereof, or interest therein, excepting only sales or other

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dispositions of personalty no longer useful in connection with the operation of the Property, provided that prior to the sale or other disposition thereof, such personalty has been replaced by other personalty, subject to the first and prior lien hereof, of at least equal value and utility; or

- b. In the event that Borrower is a land trustee, if any beneficiary of Borrower shall create, effect, contract for, commit to or consent to, or shall suffer or permit any sale, assignment, transfer, lien, pledge, mortgage, security interest of other encumbrance or alienation of such beneficiary's beneficial interest in Borrower; or
- c. In the event that Borrower or any beneficiary of Borrower is a partnership, corporation, or limited liability company, if any general partner, shareholder, or member of Borrower or such beneficiary shall create, effect, contract for, commit to or consent to, or shall suffer or permit any encumbrance, sale, assignment, transfer, lien, pledge, mortgage, security interest, or other encumbrance or alienation of any such partnership interest, or shares of stock, or membership interest,

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 operation of law or otherwise; provided that the foregoing provisions of this section 18 shall not apply (i) to the lien of current taxes and assessments not in default, (ii) to any transfers of the Property or part thereof, or interest therein, or beneficial interest, partnership interest, shares of stock, or membership interest, as the case may be, by or on behalf of an owner thereof who is deceased or declared judicially incompetent, to such owner's heirs, legatees, devisees, executors, administrators, estate, personal representatives and/or committee, or (iii) to real estate sales contracts entered into in the ordinary course of business. The provisions of this paragraph 18 shall be operative with respect to, and shall be binding upon, any persons who, in accordance with the terms hereof or otherwise, shall acquire any part of or interest in or encumbrance upon the Property or such beneficial interest, partnership interest, shares of stock, or membership interest.

19. Notice. Except for any notice required under applicable law to be given in any other manner, (a) any notice to Borrower provided for in this Instrument or in the Note shall be given by personal service upon Borrower or by mailing of such notice by certified mail addressed to Borrower at Borrower's address stated herein or at such other address as Borrower may designate by notice to Lender as provided herein, and (b) any notice to Lender shall be given by certified mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein. Any notice provided for in this Instrument or in the Note shall be deemed to have been given when personally served as hereinabove provided or, if mailed, on the date of deposit of such notice in the United States Mail.

20. Successors and Assigns Bound; Joint and Several Liability; Agents; Captions. The covenants and agreements herein contained shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Lender and Borrower, subject to the provisions of paragraph 18 hereof. All covenants and agreements of Borrower shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Lender may act through its employees, agents or independent contractors as authorized by Lender. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

21. Governing Law; Venue; Severability. This Instrument shall, at Lender's option, be governed by the laws of the State of Illinois or the laws of the jurisdiction in which the Property is located. Venue for all disputes and claims arising from this Instrument shall be in the county in which the Property is situated. In the event that any provisions of this Instrument or the Note conflict with applicable law, such conflict shall not affect other provisions of this Instrument or the Note which can be given effect without the conflicting

provisions, and to this end the provisions of this Instrument and the Note are declared to be severable. In the event that any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in this Instrument or in the Note, whether considered separately or together with other charges levied in connection with this Instrument and the Note, violates such law, and Borrower is entitled to the benefit of such law, such charge is hereby reduced to the extent necessary to eliminate such violation. The amounts, if any, previously paid to Lender in excess of the amounts payable to Lender pursuant to such charges as reduced shall be applied by Lender to reduce the principal of the indebtedness evidenced by the Note (in which case no prepayment penalty shall be applicable) or, at Lender's option, shall be refunded to the Borrower. For the purpose of determining whether any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower has been violated, all indebtedness which is secured by this Instrument or evidenced by the Note and which constitutes interest, as well as all other charges levied in connection with such indebtedness which constitute interest, shall at Lender's option be deemed to be allocated and spread over the stated terms of the Note. Unless otherwise required by applicable law, such allocation and spreading shall be effected in such a manner that the rate of interest computed thereby is uniform throughout the stated terms of the Note.

22. Waiver of Statute of Limitations. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action to enforce the Note or any other obligation secured by this Instrument.

23. Waiver of Marshalling. Notwithstanding the existence of any other security interests in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

24. Assignment of Rents; Appointment of Receiver Lender in Possession. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents, revenues and security deposits of the Property, including those now due, past due, or to become due by virtue of any lease or other agreement, now or hereafter existing, of the occupancy or use of all or any part of the Property, regardless of to whom the rents, revenues and security deposits of the Property are payable. Borrower hereby authorizes Lender or Lender's agents to collect the aforesaid rents and revenues and hereby directs each tenant of the Property to pay such rents to Lender or Lender's agents; provided, however, that prior to written notice given by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, Borrower shall collect and receive all rents and revenues of the Property as trustee for the benefit of Lender and Borrower, to apply the rents and revenues so collected to the sums secured by this Instrument in the order provided in paragraph 3 hereof with the balance, so long as no such breach has occurred, to the account of Borrower, it being intended by Borrower and Lender that this assignment of rents constitutes an absolute assignment and not an assignment for additional security only. Upon delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument, and without the necessity of Lender entering upon and taking and maintaining full control of the Property in person, by agent or by a court-appointed receiver, Lender shall immediately be entitled to possession of all rents and revenues of the Property as specified in this paragraph 24 as the same become due and payable, including but not limited to rents then due and unpaid, and all such rents shall immediately upon delivery of such notice be held by Borrower as trustee for the benefit of Lender only; provided, however, that the written notice by Lender to Borrower shall contain a statement that

Lender exercises its rights to such rents. Borrower agrees that commencing upon delivery of such written notice of Borrower's breach by Lender to Borrower, each tenant of the Property shall make such rents payable to and pay such rents to Lender or Lender's agents on Lender's written demand to each tenant therefor, delivered to each tenant personally, by mail or by delivering such demand to each rental unit, without any liability on the part of said tenant to inquire further as to the existence of a default by Borrower.

Borrower hereby represents and warrants that Borrower has not executed any prior assignment of said rents, that Borrower has not performed, and will not perform, any acts and has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under this paragraph 24, and that at the time of execution of this Instrument there has been no anticipation or prepayment of any of the rents of the Property for more than two months prior to the due dates of such rents. Borrower covenants that Borrower will not hereafter collect or accept payment of any rents of the Property more than two months prior to the due dates of such rents. Borrower further covenants that Borrower will execute and deliver to Lender such further assignments of rents and revenues of the Property as Lender may from time to time request.

Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Lender may in person, by agent or by a court appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation, or modification of the leases, the collection of all rents and revenues of the Property, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as Lender deems best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

All rents and revenues collected subsequent to delivery of written notice by Lender to Borrower of the breach by Borrower of any covenant or agreement of Borrower in this Instrument shall be applied first to the costs, if any, of taking control of and managing the Property and collecting the rents, including, but not limited to, attorneys' fees, premiums on receiver's bonds, costs of repairs to the Property, premiums on insurance policies, taxes, assessments and other charges on the Property, and the costs of discharging any obligations or liability of Borrower as lessor or landlord of the Property and then to the sums secured by this Instrument. Lender or the receiver shall have access to the books and records used in the operation and maintenance of the Property and shall be liable to account only for those rents actually received. Lender shall not be liable to Borrower, anyone claiming under or through Borrower or anyone having an interest in the Property by reason of anything done or left undone by Lender under this paragraph 24.

If the rents of the Property are not sufficient to meet the costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument pursuant to paragraph 8 hereof. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein. This assignment of rents of the Property shall terminate at such time as this Instrument ceases to secure indebtedness held by Lender.

25. Acceleration; Remedies. Upon Borrower's breach of any covenant or agreement of Borrower in this Instrument, including, but not limited to, the covenants to pay when due any installment under the Note or any other sums secured by this Instrument, or on the untruth or breach of any warranty or representation made herein or in connection with the loan secured hereby; or upon Borrower's breach of any covenant or agreement, or upon the untruth or breach of any warranty or representation under any other agreement or instrument now or hereafter delivered by Borrower to Lender, Lender at Lender's option may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may foreclose this Instrument by judicial proceeding and may invoke any other remedies permitted by applicable law or provided herein. Lender may exercise this option to accelerate during any default by the Borrower regardless of any prior forbearance. Lender shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorneys' fees, costs of documentary evidence, abstracts and title reports, and other costs of suit. Upon the Lender's exercise of this option to accelerate, whether or not foreclosure proceedings have been commenced, all sums secured by this Instrument shall bear interest thereafter at the Default Rate defined in the Note.

26. Environmental Matters.

- a. Definitions. As used herein, the following terms shall have the following meanings:
- i. "Environmental Laws" means all federal, state and local statutes, laws, rules, regulations, ordinances, requirements, or rules of common law, including, but not limited to, those listed or referred to in paragraph (b) below, any judicial or administrative interpretations thereof, and any judicial and administrative consent decrees, orders or judgments, whether now existing or hereinafter promulgated, relating to public health and safety and protection of the environment.
 - ii. "Hazardous Material" means without limitation, above or underground storage tanks, flammables, explosives, radioactive materials, asbestos, urea formaldehyde foam insulation, methane, lead-based paint, polychlorinated biphenyl compounds, hydrocarbon or like substances and their additives or constituents, pesticides and toxic or hazardous substances or materials of any kind, including without limitations, substances now or hereafter defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the following statutes, as amended: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. Sec. 9601, et seq., "CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. Sec 9671 et seq.); the Hazardous Materials Transportation Act (49 U.S.C. Sec. 1801 et seq.); the Toxic Substances Control Act (15 U.S.C. Sec. 2601, et seq.); the Resource Conservation and Recovery Act (42 U.S.C. Sec. 6901, et seq.); the Clean Air Act (42 U.S.C. Sec. 7401 et seq.); the Clean Water Act (33 U.S.C. Sec. 1251, et seq.); the Rivers and Harbors Act (33 U.S.C. Sec. 401 et seq.); the Illinois Environmental Protection Act (415 ILCS 5/1 et seq.) and any so-called "Superlien Law"; and in the regulations promulgated pursuant thereto, and any other applicable federal, state or local law, common law, code, rule, regulation, order, policy or ordinance, presently in effect or hereafter enacted, promulgated or implemented. Nothing contained herein shall prevent the storage, use and disposal on the Property of cleaning compounds in amounts and concentrations usually used in building maintenance in accordance with the requirements of Environmental laws.
 - iii. "Environmental Liability" means any losses, liabilities, obligations, penalties, charges, fees, claims, litigation, demands, defenses, costs, judgments, suits, proceedings, response costs, damages (including consequential damages), disbursements or expenses of any kind or nature whatsoever (including reasonable attorneys' fees at trial and appellate levels and experts' fees and disbursements and expenses

incurred in investigating, defending against or prosecuting any litigation, claim or proceeding) which may at any time be imposed upon, incurred by or asserted or awarded against Lender, and its affiliates, shareholders, directors, officers, employees, and agents (collectively "Affiliates") in connection with or arising from:

- (1) any Hazardous Material on, in, under or affecting all or any portion of the Property, the groundwater, or any surrounding areas;
- (2) any misrepresentation, inaccuracy or breach of any warranty, covenant or agreement contained or referred to in this section of a material nature;
- (3) any violation or claim of violation by Borrower of any Environmental Laws;
- (4) the imposition of any lien for damages caused by, or the recovery of any costs for, the cleanup, release or threatened release of Hazardous Material;
- (5) the costs of removal of any and all Hazardous Materials from all or any portion of the Property or any surrounding areas;
- (6) costs incurred to comply, in connection with all or any portion of the Property or any surrounding areas, with all Environmental Laws with respect to Hazardous Materials; and
- (7) all civil penalties, damages, costs, expenses, and attorneys' fees incurred by reason of any violation of the Illinois Responsible Property Transfer Act of 1988, 765 ILCS 90/1 et seq.

b. Representations and Warranties. Borrower hereby represents and warrants to Lender that to the best of Borrower's actual knowledge without independent investigation or inquiry:

- i. Compliance. The Property (including underlying groundwater and areas leased to tenants, if any), and the use and operation thereof, are currently in compliance with all applicable Environmental Laws. All required governmental permits and licenses are in effect, and Borrower is in compliance therewith. All Hazardous Material generated or handled on the Property, if any has been disposed of in a lawful manner.
- ii. Absence of Hazardous Material. No generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred nor is occurring on or from the Property. No environmental or public health or safety hazards currently exist with respect to the Property or the business or operations conducted thereon, and no underground storage tanks (including petroleum storage tanks) are present on or under the Property.
- iii. Proceedings and Actions. There are no pending or threatened: (a) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Property, or the disposal or presence of Hazardous Material, or regarding any Environmental Laws; or (b) liens or governmental actions, notices of violations, notices of non-compliance or other proceedings of any kind that could impair the value of the Property, or the priority of the lien of this Instrument, or of any of the other documents or instruments now or hereafter given as security for the indebtedness secured by this Instrument.

c. Borrower's Covenants. Borrower hereby covenants and agrees with Lender as follows:

- i. Compliance. The Property and the use and operation thereof shall comply with all Environmental Laws. All required governmental permits and licenses shall remain in effect and Borrower shall comply therewith. All Hazardous Material present, handled or generated on the Property will be disposed in a lawful manner. Borrower will satisfy all requirements of applicable Environmental Laws for the maintenance and removal of all underground storage tanks on the Property. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.
- ii. Absence of Hazardous Material. No Hazardous Material shall be introduced to or handled on the Property.
- iii. Proceedings and Actions. Borrower shall immediately notify Lender and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the environmental condition of the Property or compliance with Environmental Laws. Borrower shall promptly cure and have dismissed any such actions and proceedings to the satisfaction of Lender. Borrower shall keep the Property free of any lien imposed pursuant to any Environmental Laws.
- iv. Environmental Audit. Borrower shall provide such information and certifications which Lender may reasonably request from time to time to insure Borrower's compliance with this section. To investigate Borrower's compliance with Environmental Laws and with this section, Lender shall have the right, but not the obligation, at any time to enter upon the Property, take samples, review Borrower's books and records, interview Borrower's employees and officers, and conduct similar activities. Borrower shall cooperate in the conduct of such an audit.
- d. Lender's Right to Rely. Lender is entitled to rely upon Borrower's representations and warranties contained in this section despite any independent investigations by Lender or its consultants. Borrower shall take reasonable actions to determine for itself, and to remain aware of, the environmental condition of the Property and shall have no right to rely upon any environmental investigations or findings made by Lender or its consultants.
- e. Indemnification. Borrower agrees to indemnify, defend (at trial and appellate levels and with counsel acceptable to Lender and at Borrower's sole cost) and hold Lender and its Affiliates free and harmless from and against Lender's Environmental Liability. The foregoing indemnity shall survive satisfaction of the loan evidenced by the Note and any transfer of the Property to Lender by voluntary transfer, foreclosure or by a deed in lieu of foreclosure. This indemnification shall not apply to any liability incurred by Lender as a direct result of affirmative actions of Lender as owner and operator of the Property after Lender has acquired title to the Property and which actions are the sole and direct cause of damage resulting from the introduction and initial release of a Hazardous Material upon the Property by Lender; **PROVIDED, HOWEVER**, this indemnity shall otherwise remain in full force and effect, including, without limitation, with respect to Hazardous Material which is discovered or released at the Property after Lender acquires title to the Property but which was not actually introduced at the Property by Lender, with respect to the continuing migration or release of Hazardous Material previously introduced at or near the Property and with respect to all substances which may be Hazardous Material and which are situated at the Property prior to Lender taking title but are removed by Lender subsequent to such date. Notwithstanding any provision to the contrary set forth herein, Borrower shall not be liable for any Environmental Liability suffered or incurred as a result of (i) any Hazardous Materials having been brought onto the Property after Lender or its agents or nominees has taken title to or actual possession and control of the Property, provided that neither Borrower nor

Borrower's agents took any part in the introduction of such Hazardous Materials onto the Property, or (ii) any negligence on the part of Lender or its agents or nominees in removing any Hazardous Materials from the Property, to the extent of any additional Environmental Liability resulting therefrom.

- f. Waiver. Borrower, its successors and assigns, hereby waives, releases and agrees not to make any claim or bring any cost recovery action against Lender under CERCLA or any state equivalent, or any similar law now existing or hereafter enacted. It is expressly understood and agreed that to the extent that Lender is strictly liable under any Environmental Laws, Borrower's obligation to Lender under this indemnity (to the extent limited by the foregoing paragraph (e)) shall likewise be without regard to fault on the part of Borrower with respect to the violation or condition which results in liability to Lender.

27. Waiver of Homestead and Redemption. Borrower hereby waives all right of Homestead exemption in the Property. Borrower hereby waives all right of reinstatement and redemption or equity of redemption on behalf of Borrower and on behalf of all other persons acquiring any interest or title in the Property subsequent to the date of this Instrument. Borrower represents and warrants that all rights of reinstatement and redemption have been effectively waived to the full extent permissible under the provisions of the Illinois Mortgage Foreclosure Act.

28. Waiver of Jury Trial. Borrower hereby irrevocably waives its right to a trial by jury in the event that any action or proceeding shall be instituted to enforce or defend any rights or remedies under this instrument.

29. Business Loan. The Borrower represents and warrants that the loan evidenced by the Note and secured hereby is a business loan within the purview of Section 205/4(c) of Chapter 815 of the Illinois Compiled Statutes (or any substitute, amended, or replacement statutes or equivalent or similar statutes of such other state law as may be applicable) transacted solely for the purpose of carrying on or acquiring the business of the Borrower and that the loan is exempt from the provisions of the Federal Truth-In-Lending Act and Regulation Z (or any substitute, amended, or replacement statutes or regulations).

30. Indemnification. Borrower agrees to indemnify and hold Lender harmless from any and all claims, demands, losses, liabilities, actions, lawsuits and other proceedings, judgments, awards, decrees, costs and expenses (including reasonable attorneys' fees), arising directly or indirectly, in whole or in part, out of the acts and omissions whether negligent, willful or otherwise, of Borrower, or any of its officers, directors, agents, subagents, or employees, in connection with this Instrument or as a result of: (a) ownership of the Property or any interest therein or receipt of any rent or other sum therefrom; (b) any accident, injury to or death of persons or loss of or damage to property occurring in, or about the Property or any part thereof or on the adjoining sidewalks, curbs, vaults and vault space, if any, adjacent parking areas, streets or ways; (c) any use, non-use or condition of the Property or any part thereof or the adjoining sidewalks, curbs, vaults and vault space, if any, the adjacent parking areas, streets or ways; (d) any failure on the part of the Borrower to perform or comply with any of the terms of this Instrument; or (e) the performance of any labor or services or the furnishing of any materials or other property with respect to the Property or any part thereof. Any amounts payable to the Lender under this paragraph which are not paid within ten (10) days after written demand therefor by the Lender shall bear interest at the Default Rate defined in the Note. The obligations of the Borrower under this paragraph shall survive any termination or satisfaction of this Instrument.

31. Construction Loan. Inasmuch as the proceeds of the Loan made by Lender to Borrower and evidenced by the Note are intended to finance construction of certain improvements on the Property, Borrower covenants and agrees that this Instrument is a construction mortgage as said term is defined in Section 9-313 of

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the Illinois Uniform Commercial Code and Borrower further covenants, agrees, represents and warrants as follows:

a. Construction of Improvements. The improvements to be constructed on the Property shall be constructed and completed in accordance with the terms and provisions of the Construction Loan and Security Agreement bearing even date herewith between Borrower, Borrower's beneficiary, and Lender.

b. Additional Rights and Remedies of Lender. Upon the occurrence of an Event of Default by Borrower under the terms and conditions of the Note, this Instrument or the Construction Loan and Security Agreement, and after notice and expiration of any applicable cure period, Lender may:

1. declare the entire principal balance under all of the Note immediately due and payable; and
2. complete the construction of the improvements and enter into any contracts necessary to complete said construction. All sums so expended shall become additional indebtedness of Borrower secured by this Instrument and shall bear interest from the date of disbursement thereof at the then applicable rate under the Note; and
3. exercise any of Lender's remedies set forth in the Note, this Instrument or the Construction Loan and Security Agreement.

c. Builder's Risk Insurance. The insurance required under paragraph 5 of this Instrument shall also include such builder's risk insurance as Lender shall require, in such amounts and for such periods as Lender shall require. All of the provisions of paragraph 5 shall also be applicable to such builder's risk insurance.

32. Release. Lender agrees to provide partial releases of the lien of this Instrument from portions of the Property from time to time in accordance with the provisions of the Construction Loan and Security Agreement. Upon repayment of all sums secured by this Instrument, Lender shall release the lien of this Instrument and other security interest in full. Borrower agrees to pay all recording expenses with respect to each release.

Notwithstanding any provision to the contrary, Lender shall have no obligation to release the lien of this Instrument from any portion of the Property if an event of default has occurred and remains uncured and the indebtedness secured by this Instrument has not been paid in full or if such release would result in Lender being inadequately secured as determined by Lender.

IN WITNESS WHEREOF, Borrower has executed this Instrument by its duly authorized representatives on the date first above written.

BORROWER:

POND VIEW DRIVE ASSOCIATES, L.P., an Illinois Limited Partnership

By: **POND VIEW DRIVE, L.L.C.,** an Illinois Limited Liability Company,
being the sole general partner of **Pond View Drive Associates, L.P.**

By:


Desmond Curran, Manager

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STATE OF ILLINOIS)
COUNTY OF DUPAGE) SS

I, the undersigned, a Notary Public, in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DESMOND CURRAN, personally known to me to be Manager of POND VIEW DRIVE, 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 as such manager, 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 limited liability company as sole general partner of POND VIEW DRIVE ASSOCIATES, L.P., an Illinois limited partnership for the uses and purposes therein set forth. GIVEN under my hand and official seal, this 9th day of April, 2002.

Lori A. Bertone

Notary Public
"Official Seal"
Lori A. Bertone
Notary Public State Of Illinois
My Commission Exp. 08/28/2002

Property of Cook County Clerk's Office

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EXHIBIT "A"

LEGAL DESCRIPTION OF REAL ESTATE

LOT 25 IN SOUTH POINTE PHASE 3 BEING A SUBDIVISION IN THE NORTHEAST ¼ AND THE NORTHWEST ¼ OF SECTION 6, TOWNSHIP 35 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

P.I.N. 31-06-210-029.

Property of Cook County Clerk's Office