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Cook County Recorder

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THIS INSTRUMENT WAS PREPARED
BY AND AFTER RECORDING
SHOULD BE RETURNED TO:

Andrew S. Williams, Esq.
Aronberg Goldgehn Davis & Garmisa
One IBM Plaza
Suite 3000
Chicago, Illinois 60611
(312) 755-3140



0020558830

PROPERTY ADDRESS:

420, 430 and 440 Palatine Road
Palatine, Illinois 60067

TAX IDENTIFICATION NUMBERS:

02-15-304-042
02-15-304-043
02-15-304-045

(This space reserved for Recorder's Office)

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT ("Mortgage") dated as of the 9th day of May, 2002, is made by DMR GROUP, LLC, an Illinois limited liability company, SOLEUS PROPERTIES, LLC, an Illinois limited liability company, and KWZ, L.L.C., an Illinois limited liability company (individually and collectively, "Mortgagor"), to and for the benefit of WESTBANK, an Illinois banking association, and its successors and assigns ("Mortgagee").

WITNESSETH:

WHEREAS, Mortgagor and Patricia Haynes, Richard Haynes, Christine Kernes, Daniel Kernes, Mark Kernes, David Zelinske, Karen Zelinske, Geraldine Chaffee and Thomas A. Chaffee, Jr. (individually and collectively, the "Borrowers") have executed and delivered to Mortgagee that certain Mortgage Note of even date herewith (the "Note") in the principal amount of Two Million Four Hundred Thousand and no/100 Dollars (\$2,400,000.00) which is payable to Mortgagee, pursuant to which Mortgagor and Borrowers promise to pay said principal sum (or so much thereof as may be outstanding at the maturity thereof) in sixty (60) monthly installments, together with interest on the balance of principal from time to time outstanding and unpaid thereon at the rate and at the times specified in the Note, which Note evidences the loan (the "Loan") made to Mortgagor and Borrowers by Mortgagee;

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1ST AMERICAN TITLE Order #

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NOW, THEREFORE, to secure (i) the payment when and as due and payable ²⁰⁵⁵⁸⁸³⁰ principal of and interest on the Note; (ii) the payment of all other indebtedness which this Mortgage by its terms secures; and (iii) the performance and observance of the covenants and agreements contained in this Mortgage, the Note, the Environmental Indemnity Agreement and any other instrument or document securing the Note (all of such indebtedness, obligations and liabilities identified in (i), (ii) and (iii) above being hereinafter referred to as the "indebtedness hereby secured"), Mortgagor does hereby GRANT, SELL, CONVEY, MORTGAGE and ASSIGN unto Mortgagee, its successors and assigns and does hereby grant to Mortgagee, its successors and assigns a security interest in all and singular the properties, rights, interests and privileges described below, all of same being collectively referred to herein as the "Mortgaged Premises":

A. That certain real estate lying and being in the County of Cook and State of Illinois, more particularly described in Exhibit A attached hereto and made a part hereof (the "Real Estate");

B. All buildings and improvements of every kind and description heretofore or hereafter erected or placed on the Real Estate and all fixtures, machinery, apparatus, equipment, fittings and articles of personal property of every kind and nature whatsoever now or hereafter attached to or contained in or used in connection with the Real Estate and the buildings and improvements now or hereafter located thereon and the operation, maintenance and protection thereof, including, without limitation, all machinery, motors, fittings, radiators, awnings, shades, screens, all gas, coal, steam, electric, oil and other heating, cooking, power and lighting apparatus and fixtures, all fire prevention and extinguishing equipment and apparatus, all cooling and ventilating apparatus and systems, all plumbing, incinerating, sprinkler equipment and fixtures, all elevators and escalators, all communication and electronic monitoring equipment, all window and structural cleaning rigs and all other machinery and other equipment of every nature and fixtures and appurtenances thereto and all items of furniture, appliances, draperies, carpets, other furnishings, equipment and personal property used or useful in the operation, maintenance and protection of the Real Estate and the buildings and improvements now or hereafter located thereon and all renewals or replacements thereof or articles in substitution therefor, whether or not the same are or shall be attached to said buildings or improvements in any manner; it being mutually agreed, intended and declared that all the aforesaid property shall, so far as permitted by law, be deemed to form a part and parcel of the Real Estate and for the purpose of this Mortgage to be Real Estate and covered by this Mortgage; and as to the balance of the property aforesaid, this Mortgage is hereby deemed to be as well a Security Agreement under the provisions of the Uniform Commercial Code of the State of Illinois as presently or hereafter in effect, or as in effect from time to time (the "Code") for the purpose of creating hereby a security interest in said property, which is hereby granted by Mortgagor as debtor to Mortgagee as secured party, securing the indebtedness hereby secured. The addresses of Mortgagor (debtor) and Mortgagee (secured party) appear at Section 33 hereof;

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C. All right, title and interest of Mortgagor now owned or hereafter acquired in and to all and singular the estates, tenements, hereditaments, privileges, easements, licenses, franchises, appurtenances and rights belonging or in any wise appertaining to the Real Estate, and the buildings and improvements now or hereafter located hereon and the reversions, rents, issues, revenues and profits thereof, including all interest of Mortgagor in all rents, issues and profits of the aforementioned property and all rents, issues, profits, revenues, royalties, bonuses, rights and benefits due, payable or accruing (including all deposits of money as advance rent or for security) under any and all leases, and all credits, deposits, privileges, rights, options to renew, extend and any other options or rights of Mortgagor under all leases and renewals thereof or under any contracts or options for the sale of all or any part of said property (including during any period allowed by law for the redemption of said property after any foreclosure or other sale), together with the right, but not the obligation, to collect, receive and receipt for all such rents and other sums and apply them to the indebtedness hereby secured and to demand, sue for and recover the same when due or payable; provided that the assignments made hereby shall not impair or diminish the obligations of Mortgagor under the provisions of such leases or other agreements nor shall such obligations be imposed upon Mortgagee. By acceptance of this Mortgage, Mortgagee agrees that until an Event of Default (as hereinafter defined) shall occur giving Mortgagee the right to foreclose this Mortgage, Mortgagor may collect, receive (but not more than thirty (30) days in advance) and enjoy such rents;

D. All judgments, awards of damages, settlements and other compensation hereafter made resulting from condemnation proceedings or the taking of the Real Estate, or any part thereof or any building or other improvements now or at any time hereafter located thereon or any easement or other appurtenance thereto under the power of eminent domain, or any similar power or right (including any award from the United States Government at any time after the allowance of the claim therefor, the ascertainment of the amount thereof and the issuance of the warrant for the payment thereof), whether permanent or temporary, or for any damage (whether caused by such taking or otherwise) to said property or any part thereof or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including severance and consequential damage, and any award for change of grade of streets (collectively "Condemnation Awards");

E. All property and rights, if any, which are by the express provisions of this instrument required to be subjected to the lien hereof and any additional property and rights that may from time to time hereafter by installation or writing of any kind, be subjected to the lien hereof;

F. All rights in and to common areas and access roads on adjacent properties heretofore or hereafter granted to Mortgagor and any after-acquired title or reversion in and to the beds of any ways, roads, streets, avenues and alleys adjoining the Real Estate or any part thereof;

G. All of Mortgagor's accounts, goods, general intangibles, chattel paper, notes, instruments, equipment, machinery, inventory, cash, cash equivalents and causes of action; and

H. Any and all additions and accessories to all of the foregoing and any and all products, proceeds, renewals, replacements and substitutions of all of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Premises and the properties, rights and privileges hereby granted, bargained, sold, conveyed, mortgaged, pledged and assigned, and in which a security interest is granted, unto Mortgagee, its successors and assigns, forever; provided, however, that this instrument is upon the express condition that if the principal of and interest on the Note shall be paid in full and all other indebtedness hereby secured shall be fully paid and performed, then this instrument and the estate and rights hereby granted shall cease, determine and be void and this instrument shall be released by Mortgagee upon the written request and at the expense of Mortgagor, otherwise to remain in full force and effect.

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. Payment of the Indebtedness. The indebtedness hereby secured will be promptly paid as and when the same becomes due.

2. Representation of Title and Further Assurances. Mortgagor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purpose of this instrument and, without limiting the foregoing, to make subject to the lien hereof any property agreed to be subjected hereto or covered by the granting clauses hereof or intended so to be. At the time of delivery of these presents, Mortgagor is well seized of a fee simple and leasehold estate in the Mortgaged Premises which constitutes real property subject only to the matters set forth in Exhibit B attached hereto and hereby made a part hereof (the "Permitted Exceptions"), is the owner of the Mortgaged Premises which constitutes personal property, and has good right, full power and lawful authority to convey, mortgage and create a security interest in the same, in the manner and form aforesaid; except as set forth in Exhibit B hereto, the same is free and clear of all liens, charges, easements, covenants, conditions, restrictions and encumbrances whatsoever, including the personal property and fixtures, security agreements, conditional sales contracts and anything of a similar nature, and Mortgagor shall and will forever defend the fee title to the Mortgaged Premises against the claims of all persons whomsoever.

3. Compliance with the Note. Mortgagor will abide by and comply with and be governed and restricted by all of the terms, covenants, provisions, restrictions and agreements contained in the Note, and in each and every supplement thereto or amendment thereof which may at any time or from time to time be executed and delivered by the parties thereto or their successors and assigns.

4. Provisions of Note. The proceeds of the Note are to be disbursed by Mortgagee in accordance with the terms contained in the Note, the provisions of which are incorporated herein by reference to the same extent as if fully set forth herein. Mortgagor covenants that any and all monetary disbursements made in accordance with the Note shall constitute adequate

consideration to Mortgagor for the enforceability of this Mortgage, the Note, and that all advances and indebtedness arising and accruing under the Note from time to time, whether or not the total amount thereof may exceed the face amount of the Note, shall be secured by this Mortgage. Upon the occurrence of an Event of Default under this Mortgage or the Note, Mortgagee may (but need not) declare the entire principal indebtedness and interest thereon due and payable and pursue all other remedies conferred upon Mortgagee by this Mortgage or by law upon a default. All monies so expended shall be so much additional indebtedness secured by this Mortgage and shall be payable on demand with interest at the Default Rate (as defined in the Note). The provisions, rights, powers and remedies contained in this Mortgage and the Note are in addition to, and not in substitution for, those contained herein.

5. Payment of Taxes. Mortgagor shall pay before any penalty attaches all general taxes and all special taxes, special assessments, water, drainage and sewer charges and all other charges, of any kind whatsoever, ordinary or extraordinary, which may be levied, assessed, imposed or charged on or against the Mortgaged Premises or any part thereof and which, if unpaid, might by law become a lien or charge upon the Mortgaged Premises or any part thereof, and shall exhibit to Mortgagee official receipts evidencing such payments, except that, unless and until foreclosure, distraint, sale or other similar proceedings shall have been commenced, no such charge or claim need be paid if being contested (except to the extent any full or partial payment shall be required by law), after notice to Mortgagee, by appropriate proceedings which shall operate to prevent the collection thereof or the sale or forfeiture of the Mortgaged Premises or any part thereof to satisfy the same, conducted in good faith and with due diligence and if Mortgagor shall have furnished such security, if any, as may be required in the proceedings or required by Mortgagee's title insurer to insure over the lien of such taxes.

6. Payment of Taxes on Note, Mortgage or Interest of Mortgagee. Mortgagor agrees that if any tax, assessment or imposition upon this Mortgage or the indebtedness hereby secured or the Note or the interest of Mortgagee in the Mortgaged Premises or upon Mortgagee by reason of any of the foregoing (including, without limitation, corporate privilege, franchise and excise taxes, but excepting therefrom any income tax on interest payments on the principal portion of the indebtedness hereby secured imposed by the United States or any State) is levied, assessed or charged, then, unless all such taxes are paid by Mortgagor to, for or on behalf of Mortgagee as they become due and payable (which Mortgagor agrees to do upon demand of Mortgagee, to the extent permitted by law), or Mortgagee is reimbursed for any such sum advanced by Mortgagee, all sums hereby secured shall become immediately due and payable, at the option of Mortgagee upon thirty (30) days' notice to Mortgagor, notwithstanding anything contained herein or in any law heretofore or hereafter enacted, including any provision thereof forbidding Mortgagor from making any such payment. Mortgagor agrees to provide to Mortgagee, upon request, official receipts showing payment of all taxes and charges which Mortgagor is required to pay hereunder.

7. Tax and Insurance Deposits. Mortgagor covenants and agrees to deposit with Mortgagee, commencing on the date of Mortgagee's request and on the first day of each month thereafter until the indebtedness secured by this Mortgage is fully paid, a sum equal to one-

twelfth (1/12th) of the annual taxes and assessments (general and special) on the Mortgaged Premises (unless said taxes are based upon assessments which exclude improvements thereon now constructed or to be constructed, in which event the amount of such deposits shall be based upon Mortgagee's reasonable estimate as to the amount of taxes and assessments to be levied and assessed). If prior deposits are insufficient, immediately following an Event of Default, Mortgagor shall deposit with Mortgagee an amount of money which, together with the aggregate of the monthly deposits made or to be made pursuant to the above as of one month prior to the date on which the total annual taxes and assessments for the current calendar year become due, shall be sufficient to pay in full the total annual taxes and assessments estimated by Mortgagee to become due and payable with respect to the Mortgaged Premises for the current calendar year. Such deposits are to be held without any allowance of interest and are to be used for the payment of taxes and assessments (general and special) on the Mortgaged Premises next due and payable when they become due. Mortgagee may, at its option, itself pay such taxes and assessments when the same become due and payable (upon submission of appropriate bills therefor from Mortgagor) or shall release sufficient funds to Mortgagor for payment of such taxes and assessments. If the funds so deposited are insufficient to pay any such taxes and assessments (general or special) for any year when the same shall become due and payable, Mortgagor shall within ten (10) days after receipt of demand therefor, deposit additional funds as may be necessary to pay such taxes and assessments (general and special) in full. If the funds so deposited exceed the amount required to pay such taxes and assessments (general and special) for any year, the excess shall be applied on a subsequent deposit or deposits. Said deposits need not be kept separate and apart from any other funds of Mortgagee. Anything in this Paragraph 7 to the contrary notwithstanding, if the funds so deposited are insufficient to pay any such taxes and assessments (general or special) or any installment thereof, Mortgagor will, not later than the thirtieth (30th) day prior to the last day on which the same may be paid without penalty or interest, deposit with Mortgagee the full amount of any such deficiency.

8. Mortgagee's Interest In and Use of Deposits. Mortgagee may apply, at its option, without being required so to do, any monies at the time on deposit pursuant to Paragraph 7 hereof to the performance of any of Mortgagor's obligations hereunder or under the Note in such order and manner as Mortgagee may elect. When the indebtedness secured hereby has been fully paid, any remaining deposits shall be paid to Mortgagor. Such deposits are hereby pledged as additional security for the indebtedness hereunder and shall be irrevocably applied by Mortgagee for the purposes for which made hereunder and shall not be subject to the direction or control of Mortgagor; provided, however, that Mortgagee shall not be liable for any failure to apply to the payment of taxes and assessments any amount so deposited unless Mortgagor, while not in default hereunder, shall have requested Mortgagee in writing to make application of such funds to the payment for which they were deposited, accompanied by the bills for such taxes and assessments. Mortgagee shall not be liable for any act or omission taken in good faith or pursuant to the instruction of any party.

9. Recordation and Payment of Taxes and Expenses Incident Thereto. Mortgagor will cause this Mortgage, all mortgages supplemental hereto and any financing statement

(including, without limitation, any financing statement required under Article 9 of the Code, which has been revised by the Uniform Law Commissioners, in conjunction with the American Law Institute) or other notices of a security interest required by Mortgagee at all times to be kept, recorded and filed at its own expense in such manner and in such places as may be required by law for the recording and filing or for the re-recording and re-filing of a mortgage, security interest, assignment or other lien or charge upon the Mortgaged Premises, or any part thereof, in order fully to preserve and protect the rights of Mortgagee hereunder, and, without limiting the foregoing, Mortgagor will pay or reimburse Mortgagee for the payment of any and all taxes, fees or other charges incurred in connection with any such recordation or re-recordation, including any documentary stamp tax or tax imposed upon the privilege of having this instrument or any instrument issued pursuant hereto recorded.

10. Insurance.

(a) Mortgagor will, at its expense, maintain or cause to be maintained the insurance described herein and the following insurance with good and responsible insurance companies satisfactory to Mortgagee:

(i) All risk broad form insurance with standard non-contributory mortgage clauses providing that any loss is to be adjusted with, and any recovery payable to, Mortgagee as its interest may appear. All such policies shall be in such amounts, containing such coverages and insure against such risks as shall be reasonably satisfactory to Mortgagee. Without limiting the generality of the foregoing, the improvements shall be insured to an amount equal to 100% of the full replacement value without deduction for depreciation at all times against loss or damage by fire, lightning, windstorm, explosion, theft and such other risks as are usually intended under extended coverage;

(ii) Comprehensive general liability insurance, in form and amount satisfactory to Mortgagee, insuring Mortgagor, Mortgagee and such other persons as Mortgagee may designate, as their interests may appear, against any loss or damage for personal injury, death and property damage occasioned by an accident or casualty occurring in, upon or about the Mortgaged Premises or the sidewalks, alleys or other property adjacent thereto;

(iii) In the event that Mortgagor contracts with or employs any person or persons upon the Mortgaged Premises, worker's compensation insurance, insuring Mortgagor and such other persons as Mortgagee may designate, as their interests may appear, against loss or damages resulting from any accident or casualty; and

(iv) Such other insurance against other insurance hazards that mortgagee may require or which are commonly insured against in the case of property similarly situated.

(b) Policy Provisions. All insurance maintained by Mortgagor shall be maintained with good and responsible insurance companies, shall provide that no cancellation thereof shall be effective until at least thirty (30) days after receipt by Mortgagee of written notice thereof, shall provide that losses are payable notwithstanding any acts or omissions of Mortgagor, shall contain no deductible provisions in excess of Five Thousand and No/100 Dollars (\$5,000.00), shall show Mortgagee, its successors and/or assigns as an additional insured and as a loss payee, and shall be satisfactory to Mortgagee in all other respects.

(c) Renewal Policies. Mortgagor will deliver to Mortgagee an original certificate or certificates of insurance and evidence of payment of premiums for each such policy and will cause renewal policies to be delivered thereto at least fifteen (15) days prior to the expiration of any such policies.

(d) Additional Policies. Mortgagor shall not take out or maintain separate insurance concurrent in kind or form or contributing in the event of loss with any insurance required hereinabove unless Mortgagee shall be named as an additional insured and loss payee.

The proceeds of such insurance shall be applied as provided in Paragraph 11 hereof. In the event of foreclosure, Mortgagor authorizes and empowers Mortgagee to effect insurance upon the Mortgaged Premises in the amounts required by Mortgagee, for a period covering the time of redemption from foreclosure sale provided by law, and if necessary therefor, to cancel any or all existing insurance policies.

11. Damage to and Destruction of the Improvements.

(a) Notice. In case of any material damage to or destruction of any improvements which are or will be constructed on the Mortgaged Premises or any part thereof, Mortgagor shall promptly give written notice thereof to Mortgagee, generally describing the nature and extent of such damage or destruction.

(b) Restoration. In case of any damage to or destruction of the Mortgaged Premises or any part thereof, Mortgagor, if the insurance proceeds received on account of such damage or destruction are sufficient for the purpose, at Mortgagor's expense, will promptly commence and complete (subject to unavoidable delays occasioned by strikes, lockouts, acts of God, inability to obtain labor or materials, governmental restrictions and similar causes beyond the reasonable control of Mortgagor) the restoration, replacement or rebuilding of the Mortgaged Premises as nearly as possible to its value, condition and

character immediately prior to such damage or destruction. If the insurance proceeds received on account of such damage or destruction are not sufficient for the foregoing purposes, Mortgagor shall apply all of such proceeds as prepayment of the Note or any other indebtedness hereby secured.

(c) Adjustment of Loss. Upon the occurrence of an Event of Default, Mortgagee hereby authorizes Mortgagee, at Mortgagee's option, to adjust and compromise any losses under any insurance afforded, but unless Mortgagee elects to adjust the losses as aforesaid, said adjustment and/or compromise shall be made by Mortgagor, subject to final approval of Mortgagee in the case of losses exceeding Twenty Five Thousand and No/100 Dollars (\$25,000.00).

(d) Application of Insurance Proceeds. Net insurance proceeds received by Mortgagee under the provisions of this Mortgage or any instruments supplemental hereto and thereto or under any policy or policies of insurance covering the Mortgaged Premises or any part thereof shall first be applied as a prepayment of the Note and any other indebtedness hereby secured (and Mortgagee is hereby irrevocably authorized and directed to make such an application whether or not the Note or any other indebtedness hereby secured may then be due or otherwise adequately secured) and shall thereafter be applied to the reduction of any other indebtedness hereby secured; provided, however, that such proceeds will be made available for the restoration of the portion of the Mortgaged Premises damaged or destroyed if written application for such use is made within thirty (30) days of receipt of such proceeds and the following conditions are satisfied to the reasonable satisfaction of Mortgagee: (i) no Event of Default, or event which, with the lapse of time, the giving of notice, or both, would constitute an Event of Default, shall have occurred or be continuing (and if such an event shall occur during restoration, Mortgagee may, at its election, apply any insurance proceeds then held by Mortgagee to the reduction of the indebtedness evidenced by the Note and the other indebtedness hereby secured); (ii) Mortgagor shall have submitted to Mortgagee plans and specifications for the restoration which shall be reasonably satisfactory to Mortgagee; (iii) Mortgagor shall submit to Mortgagee fixed price contracts with good and responsible contractors and materialmen covering all work and materials necessary to complete restoration and providing for a total completion price not in excess of the amount of insurance proceeds available for restoration, or, if a deficiency shall exist, Mortgagor shall have deposited the amount of such deficiency with Mortgagee; and (iv) Mortgagor shall have obtained a waiver of the right of subrogation from any insurer under such policies of insurance who at that time claims that no liability exists as to Mortgagor or the insured under such policies. Any insurance proceeds to be released pursuant to the foregoing provisions may at the option of Mortgagee be disbursed from time to time as restoration progresses to pay for restoration work completed and in place and such disbursements may at Mortgagee's option be made directly to Mortgagor or to or through any contractor or materialman to whom payment is due or to or through a construction escrow to be maintained by a title insurer acceptable to Mortgagee. Mortgagee may

impose such further conditions upon the release of insurance proceeds (including the receipt of title insurance) as are customarily imposed by prudent construction lenders to insure the completion of the restoration work free and clear of all liens or claims for lien. All title insurance charges and other costs and expenses paid to or for the account of Mortgagor in connection with the release of such insurance proceeds shall constitute so much additional indebtedness hereby secured to be payable upon demand with interest at the rate applicable to the Note at the time such costs or expenses are incurred. Mortgagee may deduct any such costs and expenses from insurance proceeds at any time held by Mortgagee. If Mortgagor fails to request that insurance proceeds be applied to the restoration of the improvements or if Mortgagor makes such a request but fails to complete restoration within a reasonable time, Mortgagee shall have the right, but not the duty, to restore or rebuild the Mortgaged Premises or any part thereof for or on behalf of Mortgagor in lieu of applying said proceeds to the indebtedness hereby secured and for such purpose may do all necessary acts, funds for the purpose of restoration, all such additional funds to constitute part of the indebtedness hereby secured payable upon demand with interest at the Default Interest Rate as defined in the Note.

12. Eminent Domain. If all or any part, other than an immaterial portion (as determined by Mortgagee) of the Mortgaged Premises shall be damaged or taken through condemnation (which term when used herein shall include any damage or taking by any governmental authority and any transfer by private sale of lieu thereof), either temporarily or permanently, and if in Mortgagee's reasonable judgement such taking causes a material adverse impact on the Mortgaged Premises, then the entire indebtedness secured hereby shall, at the option of Mortgagee, become immediately due and payable. Mortgagor acknowledges that all condemnation awards have been assigned to Mortgagee, which awards Mortgagee is hereby irrevocably authorized to collect and receive, and to give appropriate receipts and acquittances therefore and at Mortgagee's option, to apply the same toward the payment of the amount owing on account of the indebtedness secured hereby in such order of application as Mortgagee may elect and whether or not the same may then be due and payable or otherwise adequately secured. In the event that any proceeds of a condemnation award shall be made available to Mortgagor for restoring the Mortgaged Premises so taken, Mortgagor hereby covenants to promptly commence and complete such restoration of the Mortgaged Premises as nearly as possible to its value, condition and character immediately prior to such condemnation. Mortgagor covenants and agrees that Mortgagor shall give Mortgagee immediate notice of the actual or threatened commencement of any proceeding under condemnation or eminent domain affecting all or any part of the Mortgaged Premises including any easement therein or appurtenance thereof or severance and consequential damage and change in the grade of streets, and will deliver to Mortgagee copies of any and all papers served in connection with any such proceedings. Mortgagor further covenants and agrees to make, execute and deliver to Mortgagee, at any time and from time to time, upon request, free, clear and discharged of any encumbrances of any kind whatsoever, any and all further assignments and/or instruments deemed necessary by Mortgagee for the purpose of validly and sufficiently assigning all awards and other compensation heretofore

and hereafter to be made to Mortgagor or any taking, either permanent or temporary, under any such proceeding.

13. Construction, Repair, Waste, Etc. Mortgagor shall (i) keep and maintain the Mortgaged Premises and every part thereof in good repair and condition (ordinary wear and tear excepted) making such repairs and replacements as may from time to time be reasonably necessary or appropriate to keep the Mortgaged Premises in at least as good condition as that existing on the date of this Mortgage, (ii) complete, within a reasonable period of time, any improvements now or, with the consent of Mortgagee, which consent shall not be unreasonably withheld or delayed, hereafter in the process of being constructed on the Real Estate, (iii) to the extent that proceeds of insurance are available and Mortgagee allows the proceeds to be disbursed to Mortgagor, repair, restore or replace any fixtures and personal property now or hereafter on the Real Estate which may be or become damaged or destroyed to a condition or with items at least equal to those repaired, restored or replaced and, if subject to the lien of this Mortgage, free of any security interest therein, encumbrance thereon or reservation of title thereto, (iv) comply in all material respects with all laws, ordinances, regulations and orders of any federal, state, county or municipal authority and with any restriction or requirement contained in any recorded instrument relating to the Mortgaged Premises or to the use thereof, (v) comply with any conditions and requirements necessary to maintain the insurance required under this Mortgage, (vi) maintain any and all rights, licenses, permits, privileges, franchises or concessions, whether public or private, which are or become applicable to the Mortgaged Premises or which are granted to Mortgagor in connection with any existing or planned improvement or use of the Mortgaged Premises, (vii) not erect, demolish, remove or alter any improvement on the Real Estate except as may be required by law or as may be necessary for any repairs or replacements expressly required under this Mortgage without the written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed; provided, however, that the foregoing shall not apply to any such actions which do not involve property in the aggregate having a value of (A) Five Thousand and No/100 Dollars (\$5,000.00) or more per annum or (B) Fifty Thousand and No/100 Dollars (\$50,000.00) or more per annum if property of equal or greater value is substituted for the property affected by such actions, (viii) not remove, sever, sell or mortgage any fixtures or personal property of Mortgagor on the Real Estate except as may be required by law or in the ordinary course of business without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed; provided, however, that the foregoing shall not apply to any such actions which do not involve property in the aggregate having a value of (A) Five Thousand and No/00 Dollars (\$5,000.00) or more per annum or (b) Fifty Thousand and No/100 Dollars (\$50,000.00) or more per annum if property of equal or greater value is substituted for the property affected by such actions, (ix) not permit, suffer or commit any waste, impairment or deterioration of the Mortgaged Premises or any part thereof (ordinary wear and tear excepted), (x) not permit or conduct either the generation, treatment, storage or disposal of hazardous waste, as defined in the Resource Conservation and Recovery Act, or the disposal on the Mortgaged Premises of petroleum or any hazardous substance, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act, and shall perform all remedial actions necessary as the result of the presence of any

such hazardous wastes, petroleum or hazardous substances on, at or near the Mortgaged Premises, regardless of by whom caused, (xi) not abandon or vacate the Mortgaged Premises or suffer or permit the Mortgaged Premises to be abandoned, (xii) not use or suffer or permit the use of the Mortgaged Premises for a purpose other than that for which the same are used on the date of this Mortgage except as may be required by law without the prior written consent of Mortgagee, which consent shall not be unreasonably withheld or delayed, (xiii) not cause, suffer or permit the Mortgaged Premises to be or become subject to any covenants or restrictions not existing on the date of this Mortgage or initiate, suffer or permit any change in any existing covenant, restriction, zoning ordinance or other private or public restriction impacting upon the uses which may be made of, or the improvements which may be placed upon, the Mortgaged Premises and shall promptly notify Mortgagee of and appear in and defend, at its sole cost and expense, any proceeding to impose or change any such covenants and restrictions but solely to the extent that Mortgagee reasonably believes that the foregoing is likely to have a material adverse effect on the business or operation of Mortgagor, and (xiv) not subdivide the Mortgaged Premises or subject the Mortgaged Premises to the provisions of the condominium laws of the state in which the Mortgaged Premises are located.

14. Liens and Encumbrances. Mortgagor will not, without the prior written consent of Mortgagee, directly or indirectly create or suffer to be created, or to remain, and will discharge or promptly cause to be discharged any mortgage, lien, encumbrance or charge on, pledge or conditional sale or other title retention agreement with respect to the Mortgaged Premises or any part thereof, whether superior or subordinate to the lien hereof, except for this instrument, the Permitted Exceptions and the lien of all other documents given to secure the indebtedness hereby secured; provided, however, that Mortgagor may contest the validity of any mechanic's lien, charge or encumbrance (other than the lien of this Mortgage or of any other document securing payment of the Note) upon giving Mortgagee timely notice of its intention to contest the same and either (a) maintaining with Mortgagee a deposit of cash or negotiable securities satisfactory to Mortgagee in an amount sufficient in the opinion of Mortgagee to pay and discharge or to assure compliance with the matter under contest in the event of a final determination thereof adversely to Mortgagor or (b) obtaining title insurance coverage over such lien on Mortgagee's title insurance policy. Mortgagor agrees to prosecute and contest such lien diligently and by appropriate legal proceedings which will prevent the enforcement of the matter under contest and will not impair the lien of this Mortgage or interfere with the normal conduct of business on the Mortgaged Premises. On final disposition of such contest, any cash or securities in Mortgagee's possession not required to pay or discharge or assure compliance with the matter contested shall be returned to Mortgagor without interest.

15. Right of Mortgagee to Perform Mortgagor's Covenants, Etc. If Mortgagor shall fail to make any payment or perform any act required to be made or performed hereunder, Mortgagee, without waiving or releasing any obligation or default, may (but shall be under no obligation to) at any time thereafter upon prior written notice to Mortgagor and failure of Mortgagor to make such payment or perform such act within any applicable cure period provided herein make such payment or perform such act for the account and at the expense of Mortgagor,

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and may enter upon the Mortgaged Premises or any part thereof for such purpose and take all such action thereon as, in the opinion of Mortgagee, may be necessary or appropriate therefor. All sums so paid by Mortgagee and all costs and expenses (including, without limitation, reasonable attorneys' fees and expenses) so incurred, together with interest thereon from the date of payment or incurrence at the Default Interest Rate, shall constitute so much additional indebtedness hereby secured and shall be paid by Mortgagor to Mortgagee on demand. Mortgagee in making any payment authorized under this Section 15 relating to taxes or assessments may do so according to any bill, statement or estimate procured from the appropriate public office without inquiry into the accuracy of such bill, statement or estimate or into the validity of any tax assessment, sale, forfeiture, tax lien or title or claim thereof.

16. After-Acquired Property. Any and all property hereafter acquired which is of the kind or nature herein provided and related to the Real Estate or intended to be and become subject to the lien hereof, shall ipso facto, and without any further conveyance, assignment or act on the part of Mortgagor, become and be subject to the lien of this Mortgage as fully and completely as though specifically described herein; but nevertheless Mortgagor shall from time to time, if requested by Mortgagee, execute and deliver any and all such further assurances, conveyances and assignments as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting to the lien of this Mortgage all such property.

17. Inspection by Mortgagee. Mortgagee and its agents shall have the right to inspect the Mortgaged Premises at all reasonable times and access thereto shall be permitted for that purpose.

18. Subrogation. Mortgagor acknowledges and agrees that Mortgagee shall be subrogated to any lien discharged out of the proceeds of the Loan, irrespective of whether or not any such lien may have been released of record.

19. 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, radon,

asbestos, urea formaldehyde foam insulation, methane, lead-based paint, polychlorinated biphenyl compounds, hydrocarbons or like substances and their additives or constituents, pesticides and toxic or hazardous substances on materials of any kind, including without limitation, substances now or hereafter defined as "hazardous substances," "hazardous materials," "toxic substances" or "hazardous wastes" in the following statutes, as amended and as the same may from time to time hereafter be further amended: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq., "CERCLA"); the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §9671 et seq., "SARA"); the Hazardous Materials Transportation Act (49 U.S.C. 1801, et seq., "HMTA"); the Toxic Substances Control Act (15 U.S.C. §2601, et seq., "TSCA"); the Resource Conservation and Recovery Act (42 U.S.C. §6901, et seq., "RCRA"); the Clean Air Act (42 U.S.C. §7401 et seq., "CAA"); the Clean Water Act (33 U.S.C. §1251, et seq., "CWA"); the Rivers and Harbors Act, (33 U.S.C. §401 et seq., "RHA"); 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.

(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 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 Mortgagee or any of Mortgagee's parent or subsidiary corporations, and their 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 Mortgaged Premises, 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 19;
- (3) any violation or claim of violation by Mortgagor 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 enforcement of this Agreement or the assertion by Mortgagor of any defense to its obligations hereunder;

(6) the costs of removal of any and all Hazardous Materials from all or any portion of the Mortgaged Premises or any surrounding areas; or

(7) costs incurred to comply, in connection with all or any portion of the Mortgaged Premises or any surrounding areas, with all Environmental Laws with respect to Hazardous Materials.

(b) Representations, Warranties and Covenants. Mortgagor hereby represents and warrants to Mortgagee and covenants and agrees with Mortgagee as follows:

(i) Site Inspection. To the best knowledge of Mortgagor, the soil, subsoil, bedrock, surface water and ground water of the Mortgaged Premises are free of any Hazardous Material.

(ii) Compliance. To the best knowledge of Mortgagor, the Mortgaged Premises (including underlying groundwater and areas leased to tenants, if any) and the use and operation thereof are currently in compliance, and shall comply, with all Environmental Laws. All required governmental permits and licenses are and shall remain in effect, and Mortgagor is in compliance and shall comply therewith. All Hazardous Material present, handled or generated on the Mortgaged Premises have been or will be disposed in a lawful manner and in compliance with all Environmental Laws. Mortgagor shall satisfy all requirements or applicable Environmental Laws for the maintenance and removal of all underground storage tanks, if any, on the Mortgaged Premises. Without limiting the foregoing, all Hazardous Material shall be handled in compliance with all applicable Environmental Laws.

(iii) Absence of Hazardous Material. To the best knowledge of Mortgagor, no generation, manufacture, storage, treatment, transportation or disposal of Hazardous Material has occurred, is occurring or shall be introduced to or handled on or from the Mortgaged Premises. No environmental or public health or safety hazards currently exist with respect to the Mortgaged Premises or the business or operations conducted thereon. No underground storage tanks (including petroleum storage tanks) are present on or under the Mortgaged Premises.

(iv) Proceedings and Actions.

(1) There are no pending or, to the best knowledge of Mortgagor, threatened: (a) actions or proceedings by any governmental agency or any other entity regarding public health risks or the environmental condition of the Mortgaged Premises, or the disposal or presence of Hazardous Material, or regarding any Environmental Laws; or (b) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Mortgaged Premises, or the priority of this Mortgage lien or of any of the other documents or instruments now or hereafter given as security for the indebtedness hereby secured.

(2) Mortgagor shall immediately notify Mortgagee and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Premises or compliance with Environmental Laws. Mortgagor shall promptly cure and have dismissed any such actions and proceedings to the satisfaction of Mortgagee. Mortgagor shall keep the Mortgaged Premises free of any lien imposed pursuant to any Environmental Laws.

(3) Mortgagor has not been given any notice to or received any inquiry from, or has any knowledge that any other person or entity has given notice to or received any inquiry from, any governmental agency or other entity concerning the release of any Hazardous Material either from or affecting the Mortgaged Premises and have not given or received notice of any pending or threatened action, suit (public or private), proceeding, investigation, or other proceeding, of any type or nature relating to the Mortgaged Premises.

(v) Environmental Audit. Mortgagor shall provide such information and certifications which Mortgagee may reasonably request from time to time to insure Mortgagor's compliance with this Section 19. To investigate Mortgagor's compliance with Environmental Laws and with this Section 19, Mortgagee shall have the right, but no obligation, at any time to enter upon the Mortgaged Premises, take samples, review Mortgagor's books and records, interview Mortgagor's employees and officers, and conduct similar activities. Mortgagor shall cooperate in the conduct of such an audit.

(vi) Environmental Investigations. To the best knowledge of Mortgagor, the Mortgaged Premises has not been the subject of any investigation which could possibly result in legal, administrative or other action (public or

private) being taken against the Mortgaged Premises pursuant to any Environmental Laws.

(vii) Environmental Insurance. Mortgagor does not currently maintain environmental liability insurance on the Mortgaged Premises and has not applied for such insurance coverage for the Mortgaged Premises.

(viii) Former Uses. Mortgagor, after diligent inquiry, has no knowledge that any current or former occupant or user of the Mortgaged Premises has violated any Environmental Laws.

(c) Mortgagee's Right to Rely. Mortgagee is entitled to rely upon Mortgagor's representations and warranties contained in this Section 19 despite any independent investigations by Mortgagee or its consultants. Mortgagor shall take reasonable actions to determine for itself, and to remain aware of, the environmental condition of the Mortgaged Premises and shall have no right to rely upon any environmental investigations or findings made by Mortgagee or its consultants.

(d) Indemnification. Mortgagor hereby indemnifies, defends (at trial and appellate levels and with counsel acceptable to Mortgagee and at Mortgagor's sole cost) and holds Mortgagee and its Affiliates free and harmless from and against Mortgagee's Environmental Liability. The foregoing indemnity shall survive satisfaction of the Loan and any transfer of the Mortgaged Premises to Mortgagee by voluntary transfer, foreclosure or by a deed in lieu of foreclosure. This indemnification shall not apply to any liability incurred by Mortgagee as a direct result of affirmative actions of Mortgagee as owner and operator of the Mortgaged Premises after Mortgagee has acquired title to the Mortgaged Premises and which actions are the sole and direct cause of damage resulting from the introduction and initial release of a Hazardous Material upon the Mortgaged Premises by Mortgagee; 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 Mortgaged Premises after Mortgagee acquires title to the Mortgaged Premises but which was not actually introduced at Mortgaged Premises by Mortgagee, with respect to the continuing migration or release of Hazardous Material previously introduced at or near the Mortgaged Premises and with respect to all substances which may be Hazardous Material and which are situated at the Mortgaged Premises prior to Mortgagee taking title but are removed by Mortgagee subsequent to such date.

(e) Waiver. Mortgagor, its successors and assigns, hereby waives, releases and agrees not to make any claim or bring any cost recovery action against Mortgagee 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 Mortgagee is strictly liable under any Environmental Laws, Mortgagor's obligation to Mortgagee under this

indemnity shall likewise be without regard to fault on the part of Mortgagor with respect to the violation or condition which results in liability to Mortgagee. 20558830

(f) Survival; Foreclosure. The obligation of Mortgagor under this Section 19 shall survive the foreclosure of this Mortgage, any transfer of the Mortgaged Premises to Mortgagee by voluntary transfer, foreclosure or deed in lieu of foreclosure, and satisfaction of the Loan (through foreclosure, repayment or otherwise). If Mortgagee takes title to the Mortgaged Premises through foreclosure or deed in lieu of foreclosure of this Mortgage or otherwise, this Section 19 shall not apply to any loss or costs incurred by Mortgagee as a direct result of affirmative actions of Mortgagee as owner and operator of the Mortgaged Premises after Mortgagee has acquired title and which actions are the sole and direct cause of damage resulting from the introduction and initial release of a Hazardous Material at the Mortgaged Premises by Mortgagee; PROVIDED, HOWEVER, this Section 19 shall otherwise remain in full force and effect, including, without limitation, with respect to Hazardous Material which is discovered or released at the Mortgaged Premises after Mortgagee acquires title to the Mortgaged Premises but which was not actually introduced at the Mortgaged Premises by Mortgagee, with respect to the continuing migration or release of Hazardous Material previously introduced at or near the Mortgaged Premises and with respect to all substances which may be Hazardous Material and which are situated at the Mortgaged Premises prior to Mortgagee taking title but are removed by Mortgagee subsequent to such date.

20. Americans With Disabilities Act of 1990.

(a) Definitions. As used herein the following terms shall have the following meanings:

(i) "ADA" means the Americans with Disabilities Act of 1990, 42 U.S.C. §12101 et seq., any judicial or administrative interpretations thereof, and any judicial and administrative consent decrees, orders or judgments, whether now existing or hereinafter promulgated relating thereto.

(ii) "ADA 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 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 Mortgagee or any of Mortgagee's parent or subsidiary corporations, and their affiliates, shareholders, directors, officers, employees, and agents (collectively "Affiliates") in connection with or arising from:

(1) any misrepresentation, inaccuracy or breach of any warranty, covenant and agreement contained or referred to in this Section 20;

(2) any violation or claim of violation by Mortgagor of the ADA;

(3) the imposition of any lien for damages caused by, or the recovery of any costs for, any violation of the ADA;

(4) costs incurred to comply, in connection with all or any portion of the Mortgaged Premises or any surrounding areas, with the ADA;

(5) all civil penalties, damages, costs, expenses, and attorneys' fees incurred by reason of any violation of the ADA.

(b) Representations and Warranties. Mortgagor hereby represents and warrants to Mortgagee as follows:

(i) Compliance. To the best knowledge of Mortgagor, the Mortgaged Premises (including the use and operation thereof) are currently in compliance with the ADA. All required governmental permits and licenses are in effect, and Mortgagor is in compliance therewith.

(ii) Proceedings and Actions. To the best knowledge of Mortgagor, there are no pending or threatened: (a) actions or proceedings by any governmental agency or any other entity regarding compliance with or violation of the ADA relating to the condition of the Mortgaged Premises; or (b) liens or governmental actions, notices of violations, notices of noncompliance or other proceedings of any kind that could impair the value of the Mortgaged Premises, or the priority of this Mortgage lien or of any of the other documents or instruments now or hereafter given as security for the indebtedness hereby secured.

(c) Mortgagor's Covenants. Mortgagor hereby covenants and agrees with Mortgagee as follows:

(i) Compliance. The Mortgaged Premises and the use and operation thereof shall comply with the ADA. All required governmental permits and licenses shall remain in effect, and Mortgagor shall comply therewith. Mortgagor will satisfy all requirements of the ADA.

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(ii) Proceedings and Actions. Mortgagor shall immediately notify Mortgagee and provide copies upon receipt of all written complaints, claims, citations, demands, inquiries, reports or notices relating to the condition of the Mortgaged Premises or compliance with the ADA. Mortgagor shall promptly cure and have dismissed any such actions and proceedings to the satisfaction of Mortgagee.

(iii) ADA Audit. Mortgagor shall provide such information and certifications which Mortgagee may reasonably request from time to time to insure Mortgagor's compliance with this Section 20. To investigate Mortgagee's compliance with the ADA and with this Section 20, Mortgagee shall have the right, but no obligation, at any time to enter upon the Mortgaged Premises, review the Mortgaged Premises, review Mortgagor's books and records, interview Mortgagee's employees and officers, and conduct similar activities. Mortgagor shall cooperate in the conduct of such an audit.

(d) Mortgagee's Right to Rely. Mortgagee is entitled to rely upon Mortgagor's representations and warranties contained in this Section 20 despite any independent investigations by Mortgagee or its consultants. Mortgagor shall take reasonable actions to determine for itself, and to remain aware of, the condition of the Mortgaged Premises and shall have no right to rely upon any investigations or findings made by Mortgagee or its consultants.

(e) Indemnification. Mortgagor agrees to indemnify, defend (at trial and appellate levels and with counsel acceptable to Mortgagee and at Mortgagor's sole cost) and hold Mortgagee and its Affiliates free and harmless from and against Mortgagee's ADA Liability. The foregoing indemnity shall survive satisfaction of the Loan and any transfer of the Mortgaged Premises to Mortgagee by voluntary transfer, foreclosure or by a deed in lieu of foreclosure.

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

21. Transfer of the Mortgaged Premises.

(a) In determining whether or not to make the Loan, Mortgagee has examined the credit-worthiness of Mortgagor and Borrowers, found it acceptable and relied and continues to rely upon same as the means of repayment of the Loan. Mortgagor is well-

experienced in borrowing money and owning and operating property such as the Mortgaged Premises, was ably represented by a licensed attorney at law in the negotiation and documentation of the Loan and bargained at arm's length and without duress of any kind for all of the terms and conditions of the Loan, including this provision. Mortgagor recognizes that Mortgagee is entitled to keep its loan portfolio at current interest rates by either making new loans at such rate or collecting assumption fees and/or increasing the interest rate on a loan in connection with a transfer of the security for the loan to a party other than the original Mortgagor. Mortgagor further recognizes that any secondary or junior financing placed upon the Mortgaged Premises (other than the Permitted Exceptions), (a) may divert funds which would otherwise be used to pay the Note secured hereby, (b) could result in acceleration and foreclosure by any such junior encumbrancer which would force Mortgagee to take measures and incur expenses to protect its security, (c) would detract from the value of the Mortgaged Premises should Mortgagee come into possession thereof with the intention of selling same; and (d) impair Mortgagee's right to accept a deed in lieu of foreclosure as a foreclosure by Mortgagee would be necessary to clear the title to the Mortgaged Premises.

(b) In accordance with the foregoing and for the purposes of (i) protecting Mortgagee's security, both of repayment by Mortgagor and in the value of the Mortgaged Premises; (ii) giving Mortgagee the full benefit of its bargain and contract with Mortgagor; (iii) allowing Mortgagee to raise the interest rate and/or collect assumption fees, but only in connection with a transfer of the Mortgaged Premises; and (iv) keeping the Mortgaged Premises free of subordinate financing liens (other than the Permitted Exceptions), Mortgagor agrees that if this Paragraph be deemed a restraint on alienation, that it is a reasonable one, and Mortgagor shall not permit or suffer to occur any sale, assignment, conveyance, mortgage, lease, pledge, encumbrance or other transfer of, or the granting of any option in, or any contract for any of the foregoing (on an installment basis or otherwise) pertaining to:

- (i) the Mortgaged Premises, any part thereof, or any interest therein;
- or
- (ii) any interest in Mortgagor;

whether involuntary or by operation of law or otherwise, without the prior written consent of Mortgagee having been obtained to such sale, assignment, conveyance, mortgage, lease, option, pledge, encumbrance or other transfer. Mortgagor agrees that in the event the ownership of the Mortgaged Premises, any interest therein or any part thereof becomes vested in a person other than Mortgagor, Mortgagee may, without notice to Mortgagor, deal in any way with such successor or successors in interest with reference to this Mortgage, the Note and any other document evidencing the indebtedness secured hereby, without in any way vitiating or discharging Mortgagor's liability hereunder or under any other document evidencing the indebtedness secured hereby. No sale of the

Mortgaged Premises, forbearance to any person with respect to this Mortgage, or extension to any person of the time for payment of the Note given by Mortgagee shall operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part, except to the extent specifically agreed in writing by Mortgagee. Without limitation of the foregoing, in any event in which the written consent of Mortgagee is required in this Paragraph 21, Mortgagee may condition its consent upon any combination of (i) the payment of compensation to be determined by Mortgagee, (ii) the increase of the interest rate payable under the Note, (iii) the shortening of maturity of the Note, and (iv) other modifications of the terms of the Note or the other instruments evidencing the indebtedness secured hereby.

(c) Without limitation of the foregoing, (i) in any event in which Mortgagee's consent is requested in accordance with the terms of this Paragraph 21, Mortgagor shall pay all expenses incurred by Mortgagee, including reasonable attorneys' fees, in connection with the processing of such request, and (ii) the consent of Mortgagee to any transfer of the Mortgaged Premises shall not operate to release, discharge, modify, change or affect the liability of Mortgagor, either in whole or in part.

22. Events of Default. Any one or more of the following shall constitute an "Event of Default" hereunder:

(a) the failure, neglect or refusal of Mortgagor and/or Borrowers to promptly pay any of the principal or interest when due under the Note or any other indebtedness secured hereby and such failure, neglect or refusal shall continue for five (5) days; or

(b) the failure, neglect or refusal of Mortgagor to perform any of the covenants or obligations on its part to be kept or performed hereunder, under any of the other agreements executed in connection herewith and such failure, neglect or refusal shall continue for a period of ten (10) days after notice thereof from Mortgagee to Mortgagor; or

(c) the breach of any of the representations or warranties of Mortgagor or any Borrower as set forth herein, or in any of the other agreements executed in connection herewith; or

(d) the Mortgaged Premises is abandoned by Mortgagor; or

(e) any representation or warranty made by Mortgagor or any Borrower herein or in the Note or any additional collateral documents or in any statement or certificate furnished pursuant hereto or thereto proves untrue in any material respect as of the date of the issuance or making thereof; or

(f) Mortgagor or any Borrower (collectively, a "Related Party") becomes insolvent or bankrupt or admits in writing his, her or their inability to pay its or their debts as they mature or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a trustee, custodian or receiver for any of them or for the major part of the property of any of them; or

(g) bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other proceedings for relief under any bankruptcy laws or laws for the relief of debtors are instituted by or against Mortgagor or a Related Party and if instituted are not dismissed within sixty (60) days after such institution; or

(h) any judgment or judgments, writ or writs or warrant or warrants of attachment or any similar process or processes shall be entered or filed against Mortgagor or a Related Party, or against any of their respective property or assets and remains unsatisfied, unvacated, unbonded or unstayed for a period of sixty (60) days; or

(i) any default (after the expiration of any applicable notice and cure period) or any Event of Default shall occur under the Note or any other document evidencing or securing the indebtedness evidenced by the Note.

23. Remedies. When any Event of Default has occurred and is continuing (regardless of the pendency of any proceeding which has or might have the effect of preventing Mortgagor from complying with the terms of this instrument) and in addition to such other rights as may be available under applicable law or under the Note, but subject at all times to any mandatory legal requirements:

(a) Acceleration. Mortgagee may, by written notice to Mortgagor, declare the Note and all unpaid indebtedness of Mortgagor and Borrowers hereby secured, including interest then accrued thereon, to be forthwith due and payable, whereupon the same shall become and be forthwith due and payable, without other notice or demand of any kind.

(b) Uniform Commercial Code. Mortgagee shall have, with respect to any part of the Mortgaged Premises constituting property of the type in respect of which realization on a lien or security interest granted therein is governed by the Code, all the rights, options and remedies of a secured party under the Code, including without limitation, the right to the possession of any such property or any part thereof, and the right to enter with legal process any premises where any such property may be found. Any requirement of said Code for reasonable notification shall be met by mailing written notice to Mortgagor at its address above set forth at least ten (10) days prior to the sale or other event for which such notice is required. The expenses of retaking, selling and otherwise disposing of said property, including reasonable attorneys' fees and legal expenses incurred in connection therewith, shall constitute so much additional

indebtedness hereby secured and shall be payable upon demand with interest at the Default Interest Rate.

(c) Foreclosure. Mortgagee may proceed to protect and enforce the rights of Mortgagee hereunder (i) by any action at law, suit in equity or other appropriate proceedings, whether for the specific performance of any agreement contained herein, or for an injunction against the violation of any of the terms hereof, or in aid of the exercise of any power granted hereby or by law, or (ii) by the foreclosure of this Mortgage. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness hereby secured in the decree of sale, all expenditures and expenses authorized by the Illinois Mortgage Foreclosure Law, as amended from time to time, 735 ILCS 5/15-1101, et seq (the "Act") and all other expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorney's fees, appraiser's fees, outlays for documentary and expert evidence, stenographer's charges, publication costs, and costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Mortgaged Premises. All expenditures and expenses of the nature mentioned in this paragraph, and such other expenses and fees as may be incurred in the protection of the Mortgaged Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage, the Note or the Mortgaged Premises, including bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be so much additional indebtedness hereby secured and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Interest Rate until paid.

(d) Appointment of Receiver. Mortgagee shall, as a matter of right, without notice and without giving bond to Mortgagor or anyone claiming by, under or through it, and without regard to the solvency or insolvency of Mortgagor or the then value of the Mortgaged Premises, be entitled to have a receiver appointed pursuant to the Act of all or any part of the Mortgaged Premises and the rents, issues and profits thereof, with such power as the court making such appointment shall confer, and Mortgagor hereby consents to the appointment of such receiver and shall not oppose any such appointment. Any such receiver may, to the extent permitted under applicable law, without notice, enter upon and take possession of the Mortgaged Premises or any part thereof by force, summary proceedings, ejectment or otherwise, and may remove Mortgagor or other persons and any and all property therefrom, and may hold, operate and manage the same and receive all earnings, income, rents, issues and proceeds accruing with respect thereto

or any part thereof, whether during the pendency of any foreclosure or until any right of redemption shall expire or otherwise.

(e) Taking Possession, Collecting Rents, Etc. Upon demand by Mortgagee, Mortgagor shall surrender to Mortgagee and Mortgagee may enter and take possession of the Mortgaged Premises or any part thereof personally, by its agent or attorneys or be placed in possession pursuant to court order as mortgagee in possession or receiver as provided in the Act, and Mortgagee, in its discretion, personally, by its agents or attorneys or pursuant to court order as mortgagee in possession or receiver as provided in the Act may enter upon and take and maintain possession of all or any part of the Mortgaged Premises, together with all documents, books, records, papers, and accounts of Mortgagor relating thereto, and may exclude Mortgagor and any agents and servants thereof wholly therefrom and may, on behalf of Mortgagor, or in its own name as Mortgagee and under the powers herein granted:

(i) Hold, operate, manage and control all or any part of the Mortgaged Premises and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits, and avails of the Mortgaged Premises, including without limitation actions for recovery of rent, actions in forcible detainer, and actions in distress for rent, all without notice to Mortgagor;

(ii) Cancel or terminate any lease or sublease of all or any part of the Mortgaged Premises for any cause or on any ground that would entitle Mortgagor to cancel the same;

(iii) Elect to disaffirm any lease or sublease of all or any part of the Mortgaged Premises made subsequent to this Mortgage without Mortgagee's prior written consent;

(iv) Extend or modify any then existing leases and make new leases of all or any part of the Mortgaged Premises, which extensions, modifications, and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Mortgagor, all persons whose interests in the Mortgaged Premises are subject to the lien hereof, and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness hereby secured, satisfaction of any foreclosure decree, or issuance of any certificate of sale or deed to any such purchaser;

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(v) Make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments, and improvements in connection with the Mortgaged Premises as may seem judicious to Mortgagee, to insure and reinsure the Mortgaged Premises and all risks incidental to Mortgagee's possession, operation and management thereof, and to receive all rents, issues, deposits, profits, and avails therefrom; and

(vi) Apply the net income, after allowing a reasonable fee for the collection thereof and for the management of the Mortgaged Premises, to the payment of taxes, insurance premiums and other charges applicable to the Mortgaged Premises, or in reduction of the indebtedness hereby secured in such order and manner as Mortgagee shall select.

Nothing herein contained shall be construed as constituting Mortgagee a mortgagee in possession in the absence of the actual taking of possession of the Mortgaged Premises. The right to enter and take possession of the Mortgaged Premises and use any personal property therein, to manage, operate, conserve and improve the same, and to collect the rents, issues and profits thereof, shall be in addition to all other rights or remedies of Mortgagee hereunder or afforded by law, and may be exercised concurrently therewith or independently thereof. The expenses (including any receiver's fees, counsel fees, costs and agent's compensation) incurred pursuant to the powers herein contained shall be secured hereby which expenses Mortgagor promises to pay upon demand together with interest at the rate applicable to the Note at the time such expenses are incurred. Mortgagee shall not be liable to account to Mortgagor for any action taken pursuant hereto other than to account for any rents actually received by Mortgagee. Without taking possession of the Mortgaged Premises, Mortgagee may, in the event the Mortgaged Premises become vacant or are abandoned, take such steps as it deems appropriate to protect and secure the Mortgaged Premises (including hiring watchmen therefor) and all costs incurred in so doing shall constitute so much additional indebtedness hereby secured payable upon demand with interest thereon at the Default Interest Rate.

24. Compliance with Illinois Mortgage Foreclosure Law.

(a) In the event that any provision in this Mortgage shall be inconsistent with any provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Act.

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

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Mortgagee shall be vested with the rights granted in the Act to the full extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to the extent reimbursable under Sections 5/15-1510 and 5/15-1512 of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether enumerated in Section 23(c) or Section 26 of this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

25. Waiver of Right to Redeem From Sale; Waiver of Appraisal, Valuation, Etc. Mortgagor shall not and will not apply for or avail itself of any appraisal, valuation, stay, extension or exemption laws, or any so-called "Moratorium Laws," now existing or hereafter enacted in order to prevent or hinder the enforcement or foreclosure of this Mortgage, but hereby waives the benefit of such laws. Mortgagor for itself and all who may claim through or under it waives any and all right to have the property and estates comprising the Mortgaged Premises marshalled upon any foreclosure of the lien hereof and agrees that any court having jurisdiction to foreclose such lien may order the Mortgaged Premises sold as an entirety. In the event of any sale made under or by virtue of this instrument, the whole of the Mortgaged Premises may be sold in one parcel as an entirety or in separate lots or parcels at the same or different times, all as Mortgagee may determine. Mortgagee shall have the right to become the purchaser at any sale made under or by virtue of this instrument and Mortgagee so purchasing at any such sale shall have the right to be credited upon the amount of the bid made therefor by Mortgagee with the amount payable to Mortgagee out of the net proceeds of such sale. In the event of any such sale, the Note and the other indebtedness hereby secured, if not previously due, shall be and become immediately due and payable without demand or notice of any kind. Mortgagor acknowledges that the Mortgaged Premises does not constitute agricultural real estate, as defined in Section 5/15-1201 of the Act, or residential real estate, as defined in Section 5/15-1219 of the Act. To the fullest extent permitted by law, Mortgagor, pursuant to Section 5/15-1601(b) of the Act, hereby voluntarily and knowingly waives any and all rights of redemption on behalf of Mortgagor, and each and every person acquiring any interest in, or title to the Mortgaged Premises described herein subsequent to the date of this Mortgage, and on behalf of all other persons to the extent permitted by applicable law.

26. Costs and Expenses of Foreclosure. In any suit to foreclose the lien hereof there shall be allowed and included as additional indebtedness in the decree for sale all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraiser's fees, outlays for documentary and expert evidence, stenographic charges, publication costs and costs (which may be estimated as to items to be expended after the entry of the decree) of procuring all such abstracts of title, title searches and examination, guarantee policies, Torrens certificates and similar data and assurances with respect to title as Mortgagee may deem to be reasonably necessary either to prosecute any foreclosure action or to evidence to the bidder at any sale pursuant thereto the true condition of the title to or the value of the Mortgaged Premises, and all of which expenditures shall become so much additional indebtedness hereby secured which

Mortgagor agrees to pay and all of such shall be immediately due and payable with interest thereon from the date of expenditure until paid at the Default Interest Rate.

27. Insurance After Foreclosure. Wherever provision is made in the Mortgage for insurance policies to bear mortgagee clauses or other loss payable clauses or endorsements in favor of Mortgagee, or to confer authority upon Mortgagee to settle or participate in the settlement of losses under policies of insurance or to hold and disburse or otherwise control use of insurance proceeds, from and after the entry of judgment of foreclosure, all such rights and powers of Mortgagee shall continue in Mortgagee as judgment creditor or mortgagee until confirmation of sale. Upon confirmation of sale, Mortgagee shall be empowered to assign all policies of insurance to the purchaser at the sale.

28. Protective Advances. All advances, disbursements and expenditures made by Mortgagee before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by this Mortgage or by the Act (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the Act, including those provisions of the Act hereinbelow referred to:

(a) all advances by Mortgagee in accordance with the terms of this Mortgage to: (i) preserve or maintain, repair, restore or rebuild the improvements upon the Mortgaged Premises; (ii) preserve the lien of this Mortgage or the priority thereof; or (iii) enforce this Mortgage, as referred to in Subsection (b) (5) of Section 5/15-1302 of the Act;

(b) payments by Mortgagee of: (i) when due installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (ii) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the mortgaged real estate or any part thereof; (iii) other obligations authorized by this Mortgage; or (iv) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the Act;

(c) advances by Mortgagee in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;

(d) attorneys' fees and other costs incurred: (i) in connection with the foreclosure of this Mortgage as referred to in Section 5/1504 (d) (2) and 5/15-1510 of the Act; (ii) in connection with any action, suit or proceeding brought by or against Mortgagee for the enforcement of this Mortgage or arising from the interest of Mortgagee hereunder; or (iii) in the preparation for the commencement or defense of any such foreclosure or other action;

(e) Mortgagee's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b) (1) of Section 5/15-1508 of the Act;

(f) advances of any amount required to make up a deficiency in deposits for installments of taxes and assessments and insurance premiums as may be authorized by this Mortgage;

(g) expenses deductible from proceeds of sale as referred to in Subsections (a) and (b) of Section 5/15-1512 of the Act;

(h) expenses incurred and expenditures made by Mortgagee for any one or more of the following: (i) premiums for casualty and liability insurance paid by Mortgagee whether or not Mortgagee or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or mortgagee takes possession of the Mortgaged Premises imposed by Subsection (c) (1) of Section 5/15-1704 of the Act; (ii) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (iii) payments required or deemed by Mortgagee to be for the benefit of the Mortgaged Premises under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Mortgaged Premises; (iv) shared or common expense assessments payable to any association or corporation in which the owner of the Mortgaged Premises is a member in any way affecting the Mortgaged Premises; (v) pursuant to any lease or other agreement for occupancy of the Mortgaged Premises.

All Protective Advances shall be so much additional indebtedness secured by this Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the Default Interest Rate.

This Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time this Mortgage is recorded pursuant to Subsection (b) (10) of Section 5/15-1302 of the Act.

All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the Act, apply to and be included in:

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

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(ii) the indebtedness found due and owing to Mortgagee in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) determination of amounts deductible from sale proceeds pursuant to Section 5/15-1512 of the Act;

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

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

29. Application of Proceeds. The proceeds of any foreclosure sale of the Mortgaged Premises or of any sale of property pursuant to Section 23(c) hereof shall be distributed in the following order of priority: first, on account of all costs and expenses incident to the foreclosure or other proceedings including all such items as are mentioned in Sections 23(b), 23(c) and 26 hereof; second, to all other items which under the terms hereof constitute indebtedness hereby secured in addition to that evidenced by the Note with interest thereon as herein provided; third, to all interest on the Note; and Fourth, to all principal on the Note with any overplus to whomsoever shall be lawfully entitled to same.

30. Mortgagee's Remedies Cumulative - No Waiver. No remedy or right of Mortgagee shall be exclusive but shall be cumulative and in addition to every other remedy or right now or hereafter existing at law or in equity or by statute or provided for in the Note. No delay in the exercise or omission to exercise any remedy or right accruing on any default shall impair any such remedy or right or be construed to be a waiver of any such default or acquiescence therein, nor shall it affect any subsequent default of the same or different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Mortgagee.

31. Mortgagee Party to Suits. If Mortgagee shall be made a party to or shall intervene in any action or proceeding affecting the Mortgaged Premises or the title thereto or the interest of Mortgagee under this Mortgage (including probate and bankruptcy proceedings), or if Mortgagee employs an attorney to collect any or all of the indebtedness hereby secured or to enforce any of the terms hereof or realize hereupon or to protect the lien hereof, or if Mortgagee shall incur any costs or expenses in preparation for the commencement of any foreclosure proceeding or for the defense of any threatened suit or proceeding which might affect the Mortgaged Premises or the security hereof, whether or not any such foreclosure or other suit or proceeding shall be actually commenced, then in any such case, Mortgagor agrees to pay to Mortgagee, immediately and without demand, all reasonable costs, charges, expenses and attorneys' fees incurred by

Mortgagee in any such case, and the same shall constitute so much additional indebtedness hereby secured payable upon demand with interest at the Default Interest Rate.

32. Modification Not To Affect Lien. Mortgagee, without notice to anyone, and without regard to the consideration, if any, paid therefor, or the presence of other liens on the Mortgaged Premises, may in its discretion release any part of the Mortgaged Premises or any person liable for any of the indebtedness hereby secured, may extend the time of payment of any of the indebtedness hereby secured and may grant waivers or other indulgences with respect hereto and thereto, without in any way affecting or impairing the liability of any party liable upon any of the indebtedness hereby secured or the priority of the lien of this Mortgage upon all of the Mortgaged Premises not expressly released, and may agree with Mortgagor to modifications to the terms and conditions contained herein or otherwise applicable to any of the indebtedness hereby secured (including modifications in the rates of interest applicable thereto).

33. Notices. Any and all notices given in connection with this Mortgage shall be deemed adequately given only if in writing and addressed as follows:

If to Mortgagee:

Westbank
2225 South Wolf Road
Hillside, IL 60162
Attention: Mr. John Kovacs
Fax No. 708/562-0728

with a copy to:

Aronberg Goldgehn Davis & Garmisa
One IBM Plaza - Suite 3000
Chicago, Illinois 60611
Attention: Andrew S. Williams, Esq.
Fax No. 312/828-9635

If to Mortgagor:

DMR Group, LLC
215 Main Street
Algonquin, IL 60102
Attention: Mr. Richard Haynes
Fax No. 847/458-6457

Soleus Properties, LLC
750 N. Orleans, Suite 101
Chicago, IL 60610
Attention: Thomas A. Chaffee, Jr.

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KWZ, L.L.C.
David Zelinske
8 Ashcroft Court
Attention: Algonquin, Ill.
Fax No. 847-458-4636

With Copy to
Harry Stinaspring
77 W. Washington St.
Suite 1801
Chicago, Ill. 60602

with a copy to:

Defrees & Fiske
200 S. Michigan Avenue, Suite 1100
Chicago, IL 60604-2480
Attention: Charles Semmelhack, Esq.
Fax No. 312/939-5617

and a copy to:

Douglas G. Davidson, Esq.
6413 N. Kinzua, Suite 200
Chicago, IL 60646
Fax No. 773/775-7125

Notices shall be deemed properly delivered and received: (i) if and when personally delivered; or (ii) one (1) business day after deposit with Federal Express or other comparable commercial overnight courier; or (iii) the same day when sent by confirmed facsimile before 5:00 p.m. (Central Time). Notices may be delivered on behalf of the parties by their respective attorneys.

34. Partial Invalidity. All rights, powers and remedies provided herein are intended to be limited to the extent necessary so that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under any applicable law. If any term of this Mortgage shall be held to be invalid or unenforceable, the validity and enforceability of the other terms of this Mortgage shall in no way be affected thereby.

35. Successors and Assigns. Whenever any of the parties hereto is referred to, such reference shall be deemed to include the successors and assigns of such party; and all the covenants, promises and agreements in this Mortgage contained by or on behalf of Mortgagor, or by or on behalf of Mortgagee, shall bind and inure to the benefit of the respective successors and assigns of such parties, whether so expressed or not.

36. Default Interest Rate. For purposes of this Mortgage, "Default Interest Rate" shall mean the "Default Interest Rate" as defined in the Note.

37. Headings. The headings in this instrument are for convenience of reference only and shall not limit or otherwise affect the meaning of any provision hereof.

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38. Changes, Etc. This instrument and the provisions hereof may be changed, waived, discharged or terminated only by an instrument in writing signed by the party against which enforcement of the change, waiver, discharge or termination is sought.

39. Governing Law. This Mortgage shall be governed by and construed under the laws of the State of Illinois.

40. Mortgagor Obligations. If there shall be more than one Mortgagor party hereto, the obligations of liabilities of each such Mortgagor shall be joint and several.

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

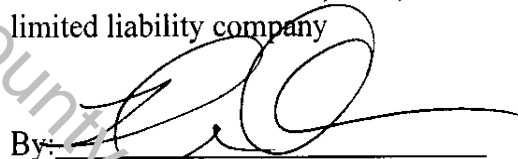
DMR GROUP, LLC, an Illinois limited liability company

By: 

Name: DAN KERNES

Title: MANAGER

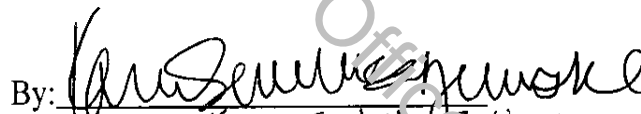
SOLEUS PROPERTIES, LLC, an Illinois limited liability company

By: 

Name: Thomas A. Caffee, Jr.

Title: President/Manager

KWZ, L.L.C., an Illinois limited liability company

By: 

Name: Karen S. Wells-Zelinske

Title: member

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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DANIEL W. KERNS personally known to me to be a Manager of DMR GROUP, LLC, an Illinois limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such Manager of such limited liability company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this 10th day of May, 2002.



Douglas G. Davidson
Notary Public

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Thomas A. Chelley, Jr. personally known to me to be a Manager of SOLEUS PROPERTIES, LLC, an Illinois limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such Manager of such limited liability company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this 9th day of May, 2002.



Charles A. Semmelhack
Notary Public


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STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

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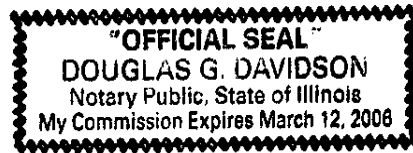
The undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that ~~KAROL S. WELLS ZBINSKI~~ personally known to me to be a Manager of KWZ, L.L.C., an Illinois limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that as such Manager of such limited liability company, he signed and delivered the said instrument as his free and voluntary act and as the free and voluntary act of said limited liability company, for the uses and purposes therein set forth and pursuant to such company's authority.

GIVEN under my hand and Notarial Seal this 10th day of May, 2002.



Notary Public

#257451 v1 - Mortgage, Assign. of Rents & Security Agmt.wpd



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EXHIBIT A

20558830

Legal Description

PARCEL 1:

LOT 61 (EXCEPT THE WESTERLY HALF THEREOF) AND THE WESTERLY 81 FEET OF LOT 62 IN ARTHUR T. MCINTOSH AND COMPANY'S PALATINE FARMS, BEING A SUBDIVISION OF THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER AND OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15 LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALSO, OF THAT PART OF LOT 8 IN THE SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALL IN TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 1919 AS DOCUMENT NUMBER 6550968, IN COOK COUNTY, ILLINOIS.

PARCEL 2:

LOT 62 (EXCEPT THE WESTERLY 81 FEET THEREOF) AND THE WESTERLY 58 FEET OF LOT 63 IN ARTHUR T. MCINTOSH AND COMPANY'S PALATINE FARMS, BEING A SUBDIVISION OF THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER AND OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15 LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALSO, OF THAT PART OF LOT 8 IN THE SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALL IN TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 1919 AS DOCUMENT NUMBER 6550968, IN COOK COUNTY, ILLINOIS.

PARCEL 3:

LOT 63 (EXCEPT THE WESTERLY 58 FEET THEREOF) AND THE WESTERLY 34 FEET OF LOT 64 IN ARTHUR T. MCINTOSH AND COMPANY'S PALATINE FARMS, BEING A SUBDIVISION OF THAT PART OF THE WEST HALF OF THE NORTHWEST QUARTER AND OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER, AND OF THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15 LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALSO, OF THAT PART OF LOT 8 IN THE SCHOOL TRUSTEE'S SUBDIVISION OF SECTION 16, LYING SOUTHERLY OF THE SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO AND NORTHWESTERN RAILWAY, ALL IN TOWNSHIP 42 NORTH, RANGE 10, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JUNE 16, 1919 AS DOCUMENT NUMBER 6550968, IN COOK COUNTY, ILLINOIS.

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EXHIBIT B

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Permitted Exceptions

1. Any lien for real estate taxes not yet due and payable.
2. Easements, covenants and restrictions of record that do not unreasonably restrict the use of the Mortgaged Premises.
3. Secondary financing procured from seller in order to acquire the Mortgaged Premises, provided that such financing shall be limited to an aggregate principal amount of \$400,000, and any lien on the Mortgaged Premises securing repayment thereof shall be junior to the lien of this Mortgage.
4. Secondary financing procured from Thomas A. Chaffee, Jr. in order to acquire the Mortgaged Premises, provided that such financing shall be limited to an aggregate principal amount of \$94,000, and any lien on the Mortgaged Premises securing repayment thereof shall be junior to the lien of this Mortgage.

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