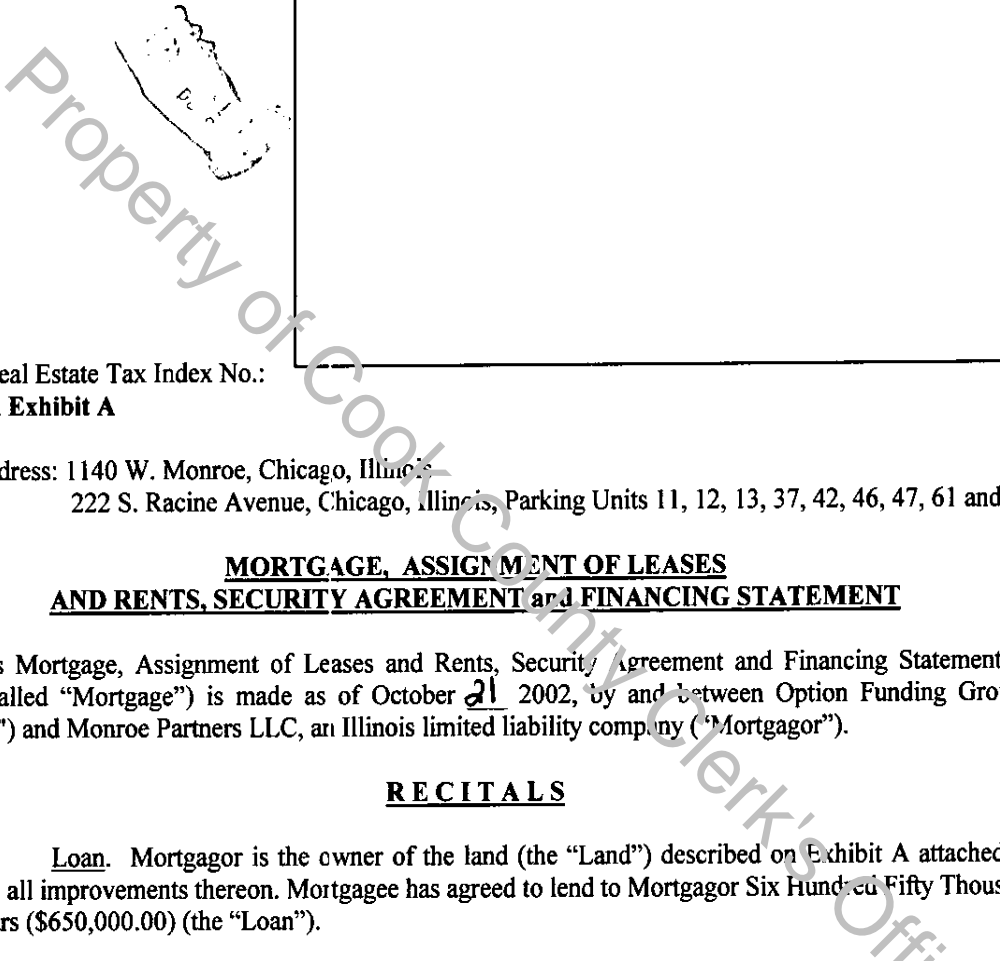


This instrument was prepared by, and, after recording, return to:

Andrew B. David
SUGAR, FRIEDBERG &
FELSENTHAL
30 N. LaSalle Street
Suite 3000
Chicago, Illinois 60602



Permanent Real Estate Tax Index No.:
See Attached Exhibit A

Common Address: 1140 W. Monroe, Chicago, Illinois
222 S. Racine Avenue, Chicago, Illinois, Parking Units 11, 12, 13, 37, 42, 46, 47, 61 and 67

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

This Mortgage, Assignment of Leases and Rents, Security Agreement and Financing Statement (herein sometimes called "Mortgage") is made as of October 21, 2002, by and between Option Funding Group, L.P. ("Mortgagee") and Monroe Partners LLC, an Illinois limited liability company ("Mortgagor").

RECITALS

A. Loan. Mortgagor is the owner of the land (the "Land") described on Exhibit A attached hereto, together with all improvements thereon. Mortgagee has agreed to lend to Mortgagor Six Hundred Fifty Thousand and no/100 Dollars (\$650,000.00) (the "Loan").

B. The Mortgage Note. (a) The Mortgagor executed and delivered to the Mortgagee a Mortgage Note in the original principal amount of \$650,000.00 (the "Note") dated the date hereof, bearing interest at the rate of eight percent (8%) per annum rate (the "Interest Rate") payable to the order of the Mortgagee. All principal and interest on the Note are payable in lawful money of the United States of America at the office of the Mortgagee as set forth herein, or at such place as the holder thereof may from time to time appoint in writing.

(b) It is hereby acknowledged that it is intended that in the event that, pursuant to the terms of the Note, the debt evidenced thereby is transferred to more than a single holder, the debt evidenced thereby shall be split up into multiple notes (together with any substitutions therefor or other instruments evidencing the indebtedness evidenced by the Note, the "New Notes"), all of which taken together shall evidence the indebtedness evidenced by the Note. Upon issuance of any New Note, Mortgagee will, upon being furnished with evidence of the surrender of the Note, or any New Note issued in partial substitution therefor, shall execute the Authentication of Mortgagee required by the terms of the Note, or New Note, as the case may be. In connection with any transfer to multiple parties, the rights of the named Mortgagee hereunder may be assigned to a single person, firm or corporation, acting as agent for all holders of the Note or New Notes, as applicable.

DEC 24 0866 10P2

C. The Secured Obligations. As used in this Mortgage the term "Secured Obligations" means and includes all of the following: the principal of and interest on the Note, or, if applicable, the New Notes, or any of them; all indebtedness of any kind arising under, and all amounts of any kind which at any time become due or owing to the Mortgagee under or with respect to this Mortgage or the Note or the New Notes; all of the covenants, obligations and agreements of Mortgagor in, under or pursuant to the Note or the New Notes or this Mortgage, and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined), perform any obligation of the Mortgagor hereunder or collect any amount owing to the Mortgagee which is secured hereby; any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, now or hereafter existing or due or to become due, owing by the Mortgagor to the Mortgagee (provided however, that the maximum amount included within the Secured Obligations on account of principal shall not exceed the sum of an amount equal to two times the original principal amount of the Note plus the total amount of all advances made by the Mortgagee from time to time to protect the Collateral and the security interest and lien created hereby); interest on all of the foregoing; and all reasonable costs of enforcement and collection of this Mortgage and the Note or New Notes, if any, and the Secured Obligations.

D. Collateral. The term "Collateral" for purposes of this Mortgage, means and includes all of the following:

(i) Real Estate. All of the Land described on Exhibit A attached hereto, together with all and singular the tenements, rights, easements, hereditaments rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in any way appertaining to the Land (including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway telephone services); all air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the Land; all estate claim, demand, right, title or interest of the Mortgagor in and to any street, road, highway, or alley (vacated or otherwise) adjoining the Land or any part thereof, all strips and gores belonging, adjacent or pertaining to the Land; and any after-acquired title to any of the foregoing (all of the foregoing is herein referred to collectively as the "Real Estate"). The Real Estate consists of 2 separate parcels as designated on Exhibit A, consisting of the "Monroe Parcel" and the "Parking Parcel."

(ii) Improvements and Fixtures. All buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate, including (without limitation) all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment (all of the foregoing is herein referred to collectively as the "Improvements" all of the Real Estate and the Improvements, and any other property which is real estate under applicable law, is sometimes referred to collectively herein as the "Premises");

(iii) Personal Property. All goods and supplies, including without limitation, machinery, appliances, stoves, refrigerators, water fountains and coolers, fans, heaters, incinerators, compactors, water heaters and similar equipment, signs, supplies, blinds, window shades, carpeting, floor coverings, fire sprinklers and alarms, control devices, fans, pipes, plumbing, smoke alarms and sprinkler control devices, light fixtures, and non-structural additions to the Real Estate, owned by the Mortgagor and used for the operation and maintenance of the Real Estate (all of the foregoing is herein referred to collectively as the "Goods");

(iv) Rents. All rents, issues, profits, royalties, avails, income and other benefits derived or owned by Mortgagor directly or indirectly from the Real Estate or the Improvements (all of the foregoing is herein collectively called the "Rents");

(v) Leases. All rights of Mortgagor under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any person agrees to pay money or any consideration for the use, possession or occupancy of, or any estate in, the Real Estate or the Improvements or any part thereof, and all rents, income, profits benefits, avails, advantages and claims against guarantors under any thereof (all of the foregoing is herein referred to collectively as the "Leases");

(vi) Service Agreements. All rights and interests of Mortgagor in and under any and all service and other agreements relating to the construction, operation, maintenance, and repair of the Premises or the buildings and improvements thereon, including any and all plans, specifications, architectural renderings, licenses, permits, soil test reports, environmental reports, other reports, examinations or analyses ("Service Agreements");

(vii) Insurance. All unearned premiums, accrued, accruing or to accrue under insurance policies now or hereafter obtained by the Mortgagor and all proceeds of the conversion, voluntary or involuntary, of the Collateral or any part thereof into cash or liquidated claims, including, without limitation, proceeds of hazard and title insurance and all awards and compensation heretofore and hereafter made to the present and all subsequent owners of the Collateral by any governmental or other lawful authorities for the taking by eminent domain, condemnation or otherwise, of all or any part of the Collateral or any easement therein, including awards for any change of grade of streets;

(viii) Awards. All judgments, awards of damages and settlements which may result from any damage to the Premises or any part thereof or to any rights appurtenant thereto; any compensation, awards, damages, claims, rights of action and proceeds of, or on account of (i) any damage or taking, pursuant to the power of eminent domain, of the Premises or any part thereof, (ii) any damage to the Premises by reason of the taking, pursuant to the power of eminent domain, of other property or of a portion of the Premises, or (iii) the alteration of the grade of any street or highway on or about the Premises or any part thereof; and proceeds of any sales or other dispositions of the Premises or any part thereof;

(ix) Other Property. All other property or rights of the Mortgagor of any kind or character used in the operation and maintenance of the Real Estate or the Improvements, and all proceeds (including, without limitation, insurance and condemnation proceeds) and products of any of the foregoing. It is specifically understood that the enumeration of any specific articles of property shall not exclude or be deemed to exclude any items of property not specifically mentioned. All of the Property hereinabove described, real, personal and mixed, whether affixed or annexed or not and all rights hereby conveyed and mortgaged are intended to be a unit and are hereby understood and agreed and declared to be appropriated to the use of the Premises, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and mortgaged hereby.

GRANT

NOW THEREFORE, for and in consideration of Mortgagee's making the proceeds of the Loan available to Mortgagor and any other financial accommodation to or for the benefit of Mortgagor, consideration of the various agreements contained herein and in the Note, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Mortgagor, and in order to secure the full, timely and proper payment and performance of each and every one of the Secured Obligations,

MORTGAGOR HEREBY MORTGAGES, CONVEYS, TRANSFERS AND ASSIGNS TO MORTGAGEE AND ITS SUCCESSORS AND ASSIGNS, FOREVER, AND HEREBY GRANTS TO MORTGAGEE AND ITS SUCCESSORS AND ASSIGNS FOREVER A CONTINUING SECURITY INTEREST IN AND TO, ALL OF THE COLLATERAL,

TO HAVE AND TO HOLD the Premises unto Mortgagee, its successors and assigns, forever, hereby expressly waiving and releasing any and all right, benefit, privilege, advantage or exemption under and by virtue of any and all statutes and laws of the State of Illinois providing for the exemption of homesteads from sale on execution or otherwise,

PROVIDED, that if the Mortgagor, its successors or assigns, shall timely pay to the Mortgagee, its successors or assigns, all payments of principal, interest, penalties, fees and all other amounts due and owing according to the terms of the Note or the New Notes and this Mortgage and keep and perform all of the covenants and agreements contained in the Note and herein then the Mortgagee shall release this Mortgage.

Mortgagor hereby covenants with Mortgagee and with the purchaser at any foreclosure sale that at the execution and delivery hereof it is well seized of the Premises, and of a good, indefeasible estate therein, in fee simple; that the

Collateral is free from all encumbrances whatsoever (and any claim of any other person thereto) other than those exceptions and encumbrances permitted by Mortgagee; that it has good and lawful right to sell, mortgage and convey the Collateral and that Mortgagor and its successors and assigns will forever defend the Collateral against all claim and demands whatsoever.

I. COVENANTS AND AGREEMENTS OF MORTGAGOR

Further to secure the payment and performance of the Secured Obligations, Mortgagor hereby covenants and agrees with Mortgagee as follows:

1.1. Payment of Secured Obligations. Mortgagor agrees that it will pay, timely and in the manner required herein and in the Note or the New Notes, the principal of and interest on the Note or if applicable the New Notes, and all other Secured Obligations (including fees and charges).

1.2. Impositions.

1.2.1. Payment of Taxes. Mortgagor will pay before delinquent all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due together with all payments for annual or other insurance and renewals thereof required to be maintained by Mortgagor under 1.7.1 hereof that may be levied, assessed, made, imposed or charged on or against the Collateral, and will pay before due any tax or other charge on the interest or estate in lands created or represented by this Mortgage (all collectively referred to herein as an "Imposition").

Notwithstanding anything to the contrary contained in the foregoing sentence, if, by law, any Imposition, at the option of the taxpayer, can and customarily is paid in installments, whether or not interest shall accrue on the unpaid balance of such Imposition, Mortgagor may, so long as no Event of Default shall exist under this Mortgage or the Note or the New Notes, exercise the option to pay such Imposition in installments and, in such event shall pay such installments together with any interest thereon, as the same become due and payable and before any fine, penalty, additional interest or cost may be added thereto.

1.2.2. Contest of Imposition. Mortgagor shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Imposition, by appropriate proceedings diligently conducted in good faith, but only after payment of such Imposition unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event notwithstanding the provisions of subsection 1.2.1 above, payment of such Imposition shall be postponed if and only so long as neither the Premises nor any part thereof would by reason of such postponement or deferment be, in the judgment of the Mortgagee, in danger of being forfeited or lost.

1.3. Maintenance and Repair Protection of Security.

(a) Mortgagor will: not abandon the Premises; not do or suffer anything to be done which would reduce or impair the value of the Collateral or the security of this Mortgage; not remove or demolish any of the Improvements; pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any changes, additions or alterations to the Real Estate or the Improvements or as required by any applicable governmental requirement or as otherwise approved in writing by Mortgagee; maintain, preserve and keep the Goods and the Improvements in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction; promptly restore and replace any of the Improvements or Goods which are destroyed or damaged; not commit, suffer, or permit waste of any part of the Premises; and maintain all grounds and abutting streets and sidewalks in good and neat order and repair.

(b) Mortgagor shall promptly notify Mortgagee of and appear in and defend any suit, action or proceeding that affects the Premises or the rights or interest of Mortgagee hereunder. Mortgagor agrees to indemnify, defend, and reimburse Mortgagee from any and all loss, damage, reasonable expense or cost arising out of or incurred in connection with any such suit, action or proceeding.

1.4 Sales, Liens. Mortgagor shall not, without the prior written consent of Mortgagee:

(a) directly or indirectly sell, contract to sell, assign, transfer, convey, or dispose of the Premises, or any part thereof or any interest or estate therein, whether legal, equitable, beneficial or possessory;

(b) subject or permit the Premises, or any portion thereof or interest therein (whether legal, equitable, beneficial or otherwise) or estate in any thereof (including the right to receive the rents and profits therefrom) directly or indirectly, to any Mortgage, deed of trust, lien, claim security interest, encumbrance or right (whether senior or junior to, or on a parity with, this Mortgage) other than this Mortgage and the Senior Mortgage, as defined in Section 4.11 hereof; or

(c) subject or permit the beneficial interest under any trust holding title to the Premises, or any portion thereof or interest therein (whether legal, equitable, beneficial or otherwise) or estate in any thereof (or permit the same to be subjected), directly or indirectly, to any mortgage deed of trust, lien, claim, security interest, encumbrance, collateral assignment or right other than this Mortgage and the Senior Mortgage, as defined in Section 4.11 hereof; or

(d) lease the Premises or any portion thereof.

1.5. Access by Mortgagee. The Mortgagor will at all times: deliver to Mortgagee either all of its executed originals (in the case of certified paper or instruments) or certified copies (in all other cases) of all leases, all amendments and supplements thereto, and any other documents which is, or which evidences, governs, or creates, Collateral; permit access by Mortgagee and its agents, representatives, contractors and participants (if any) after prior written notice during normal business hours to its books and records, tenant registers, offices, insurance policies and other papers for examination and the making of copies and extracts; prepare such schedules, summaries, reports and progress schedules as Mortgagee and its agents, representatives, contractors and participants (if any) may reasonably request; and permit Mortgagee and its agents, representatives, contractors and participants (if any), at all reasonable times, to enter onto and inspect the Premises.

1.6. Stamp and Other Taxes. If the Federal, or any state, county, local, municipal or other, government or any subdivision of any of them having jurisdiction, shall levy, assess or charge any tax (excepting therefrom any franchise tax or income tax on the Mortgagee's receipt of interest payments on the principal portion of the indebtedness secured hereby), assessment or imposition upon this Mortgage, the Secured Obligations or the Note, the New Notes, the interest of the Mortgagee in the Collateral, or any of the foregoing, or upon Mortgagee by reason of or as holder of any of the foregoing, or shall at any time or times require revenue stamps to be affixed to the Note, any New Note, or this Mortgage, Mortgagor shall pay all such taxes and stamps to or for Mortgagee as they become due and payable. If any law or regulation is enacted or adopted permitting, authorizing or requiring any tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Mortgagor from paying the tax, assessment, stamp, or imposition to or for Mortgagee, then all sums hereby secured shall become due and payable within thirty (30) days following written demand by the Mortgagee to the Mortgagor.

1.7. Insurance.

1.7.1. Required Insurance. Mortgagor will at all times maintain or cause to be maintained on the Goods, the Premises and on all other Collateral, insurance in such amounts as are commercially reasonable for the Collateral. In all events, Mortgagor shall maintain the following:

(a) Casualty Insurance: insurance covering the Premises and the Goods in the event of fire, lightning, windstorm, vandalism, malicious mischief and all other risks normally covered by "all risk" coverage policies in Chicago, Illinois, in an amount equal to 100% of the replacement value thereof;

(b) Comprehensive General Public Utility Insurance: comprehensive general public liability insurance (including coverage for elevators and escalators if any), contractual liability, explosion, underground property, and broad form property damage endorsement, against claims for bodily injury, death or property damage

occurring or caused by events occurring on, in or about the Premises and adjoining streets and sidewalk, in such minimum combined single limit amount as are commercially reasonable;

(c) Flood Insurance: Insurance against flood (if required by the Federal Flood Disaster Protection Act of 1973 and regulations issued thereunder or any other law applicable to the Mortgagee).

Mortgagor shall deliver to and keep deposited with the Mortgagee original certificates and/or certified copies of all policies of such insurance and renewals thereof, with premiums prepaid, and with standard non-contributory and Mortgagee and loss payable clauses and clauses providing for not less than thirty (30) days' prior written notice to the Mortgagee of cancellation or material modification of such policies, attached thereto in favor of the Mortgagee. Copies of all of the above-mentioned original insurance policies and certificates of such insurance, together with receipts for the payment of premiums thereon, shall be delivered to and held by Mortgagee, which delivery shall constitute assignment to Mortgagee of all return premiums to be held as additional security hereunder. All renewal and replacement policies shall be delivered to Mortgagee at least thirty (30) days before the expiration of the expiring policies.

If Mortgagor shall fail to obtain or to maintain any of the policies required by this Section, then Mortgagee, without waiving or releasing any obligation or default by Mortgagor hereunder and whether or not such failure is an Event of Default hereunder, following notice to Mortgagor, may (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Mortgagee deems advisable. All sums so disbursed by Mortgagee pursuant to this Section 1.7.1, including costs relating thereto, shall be payable by Mortgagor to Mortgagee within five (5) days after demand therefor plus interest thereon, and shall be additional Secured Obligation.

Any insurance provided for in this Section may be effected by a policy or policies of blanket insurance; provided, however, that the amount of the total insurance allocated to the Premises shall be such as to furnish protection the equivalent of separate policies in the amounts herein required, and provided further that in all other respects, any such policy or policies shall comply with the other provisions of this Mortgage, except that no such policy shall be submitted to Mortgagee less than thirty (30) days prior to expiration of an existing policy. In any such case, it shall not be necessary to deliver the original of any such blanket policy to the Mortgagee, but the Mortgagee shall be furnished with a certificate or duplicate of such policy reasonably acceptable to Mortgagee. Each policy of insurance provided for in this Section shall contain the standard form of waiver of subrogation.

1.7.2. Repair of Damage. If the Premises shall be destroyed or damaged in whole or in part, by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, Mortgagor shall give to Mortgagee immediate notice thereof. Mortgagor, at its own cost and expense, whether or not such damage or destruction shall have been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose shall promptly repair, alter, restore, replace and rebuild the same, at least to the extent of the value and as nearly as possible to the character of the Premises existing immediately prior to such occurrence. Mortgagee shall in no event be called upon to repair, alter, replace, restore or rebuild such Premises, or any portion thereof, nor to pay any of the costs or expenses thereof.

1.7.3. Allocation of Insurance Proceeds. In all events, Mortgagee is authorized to collect and receipt for any such insurance monies, and such insurance proceeds may, at the option of the Mortgagee, be (a) applied in reduction of the Secured Obligations whether due or not, in which case, the provisions of Section 1.7.2 hereof shall not apply; or (b) held in a construction escrow and applied to pay for the cost of repair, rebuilding or restoration of the buildings and other improvements on the Premises.

1.8. Eminent Domain. In case the Collateral, or any part or interest therein, is taken by condemnation, Mortgagee is hereby empowered to collect and apply all compensation and awards of any kind whatsoever (referred to collectively herein as "Condemnation Awards"), which may be paid for any property taken or for damages to any property not taken, all of which Mortgagor hereby assigns to Mortgagee. Mortgagor hereby empowers Mortgagee, upon thirty (30) days prior written notice to Mortgagor, to settle, compromise and adjust any and all claims or rights arising under any condemnation or eminent domain proceeding relating to the Collateral or any portion thereof. All Condemnation Awards so received shall be made available to Mortgagor for repair of the Premises, such proceeds shall be disbursed to Mortgagor pursuant to such terms and conditions as Mortgagee may reasonably require.

1.9. Governmental Requirements.

1.9.1. Compliance with Laws. Mortgagor will at all times fully comply with, and cause the Collateral and the use and condition thereof fully to comply with all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders, licensing provisions and decrees of any kind whatsoever that apply or relate to Mortgagor or the Collateral or the use thereof (including but not limited to any zoning or building laws or ordinances, any noise abatement, occupancy, or Environmental Laws (as hereinafter defined) or regulations, or any rules, regulations or orders of any governmental agency), and will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, easements, rights-of-way, covenants, restrictions, grants, franchises and concessions (including without limitation, those relating to land use and development, landmark preservation, construction, access, water rights and use, noise and pollution) which are applicable to Mortgagor or have been granted (whether or not of record) for the Collateral or the use thereof. Unless required by applicable law or unless Mortgagee has otherwise first agreed in writing, Mortgagor shall not make or allow any changes to be made in the nature of the occupancy or use of the Premises or any portion thereof for which the Premises or such portion was intended at the time this Mortgage is delivered.

At all times the environmental and ecological condition of the Premises shall not be in violation of any law, ordinance, rule or regulation applicable thereto; the soil, surface, water and ground water of or on the Premises shall be free from any solid waste, toxic, hazardous or special substances or contaminants; and the Premises shall not be used for the manufacture, refinement, treatment, storage, hauling or disposal of any such material. No Hazardous Materials (as hereinafter defined) shall be discharged, dispersed, released, stored, treated, generated, disposed of, or allowed to escape on the Premises, no asbestos or asbestos-containing materials shall be installed, used, incorporated into or disposed of on the Premises; no polychlorinated biphenyls ("PCBs") will be located on, in, or used in connection with the Premises; no underground storage tanks shall be located on the Premises; and the Premises shall be in compliance with all applicable federal, state and local statutes, laws, regulations, ordinances, orders, or codes relating to environmental matters.

Hazardous Materials shall mean asbestos, asbestos-containing materials, polychlorinated biphenyls ("PCBs"), petroleum products, urea, formaldehyde foam insulation, and any other hazardous, special or toxic materials, wastes and substances which are defined, determined or identified as such in any federal state or local laws, rules, regulations, ordinance, order, code or statute, in each case as amended (whether now existing or hereafter enacted or promulgated) including without limitation, the Water Pollution Control Act (33 U.S.C. 1251 et seq.), Resource Conservation and Recovery Act (42 U.S.C. 6901 et. seq.), Safe Drinking Water Act (42 U.S.C. 3000(f) et. seq.), Toxic Substances Control Act (15 U.S.C. 2601 et. seq.), Clean Air Act (42 U.S.C. 17401 et. seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et. seq.), and any law, statute, regulation, rule or ordinance of the State of Illinois and any other governmental entity with jurisdiction over the Premises or part thereof, concerning such hazardous, special or toxic materials, wastes or substances or any judicial or administrative interpretation of such laws, rules or regulations (all of the foregoing being herein collectively called "Environmental Laws").

1.9.2. Contest of Laws. Mortgagor shall have the right after prior notice to Mortgagee and so long as there exists no material threat to the priority of the lien of the Mortgage, to contest by appropriate legal proceedings conducted in the name of Mortgagor, the validity or application of any ordinances, requirements, regulations, rules, orders and decrees of the nature referred to in subsection 1.9.1 above.

1.10. Mechanics' Liens.

1.10.1. Prohibitions Against Liens. Mortgagor will not do or permit to be done any act or thing and no person shall have any right or power to do any act or thing, whereby any mechanics' or other construction lien under the laws of Illinois can arise against or attach to the Premises or any part thereof unless such lien shall first be wholly waived as against this Mortgage. In addition, it is further expressly made a covenant and condition hereof that the lien of this Mortgage shall extend to any and all improvements and fixtures now or hereafter on the Premises, prior to any other lien thereon that may be claimed by any person, so that subsequently accruing claim for lien on the Premises shall be junior and subordinate to this Mortgage.

1.10.2. Discharge of Mechanics' Liens. If any mechanic's, laborer's or materialmen's lien shall at any time be filed against the Premises, or any part thereof, Mortgagor, within one hundred twenty (120) days after notice of the filing thereof, shall cause the same to be discharged of record or otherwise stayed by payment, deposit, order of a court of competent jurisdiction or otherwise or bonded or insured over by a title insurance company reasonably acceptable to Mortgagee (the "Title Company"). If Mortgagor shall fail to cause such lien to be discharged, stayed within such period or bonded or insured over by the Title Company within such period then, in addition to any other right or remedy, Mortgagee may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Mortgagee shall be entitled, if Mortgagee so elects, to compel the prosecution of an action for the foreclosure of such lien by the lien or and to pay the amount of the judgment in favor of the lienor, with interest, costs and allowance. In any event, if any suit, action or proceedings shall be brought to foreclose or enforce any such lien (whether or not the prosecution thereof was so compelled by Mortgagee), Mortgagor shall, at its own sole cost and expense, promptly pay, satisfy and discharge any final judgment entered therein, in default of which Mortgagee, at its options, may three (3) days after notice thereof, do so. Any and all amounts so paid by Mortgagee as in this paragraph provided, and all costs and expenses paid or incurred by Mortgagee in connection with any or all of the foregoing matters, including, without limitation reasonable attorneys' fees and disbursements, shall become due and payable within five (5) days after written notice thereof, such amounts, charges, costs, expenses, fees and sums, together with interest thereon at the rate of interest, specified under the Note.

1.10.3. Right to Contest Liens. Except to the extent otherwise explicitly provided in the Note or the New Notes, notwithstanding anything to the contrary contained herein, Mortgagor may, in good faith and with due diligence, contest the validity or amount of any lien not expressly subordinated to the lien hereof and defer payment and discharge thereof during the pending of such contest, provided: (a) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such lien; (b) that, within thirty (30) days after Mortgagor has been notified of the assertion of such lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such lien; and (c) that Mortgagor shall have insured or bonded over such lien in accordance with the provisions of Section 1.10.2.

1.11. Continuing Priority. Subject to Mortgagor's right to contest set forth in Sections 1.9, and 1.10 hereof, Mortgagor will pay such fees, Impositions and charges, execute and file (at Mortgagor's expense) such financing statements, obtain such acknowledgments; or consents, notify such obligors or providers of services and materials and do all such other acts and things as Mortgagee may from time to time request to establish and maintain a valid and perfected lien on and security interest in the Collateral, subordinate only to the Senior Mortgage; keep all of its books and records relating to the Collateral on the Premises or at the principal office of the Mortgagor, keep all tangible Collateral on the Real Estate except as Mortgagee may otherwise consent in writing; make notations on its books and records sufficient to enable Mortgagee as well as third parties, to determine the interest of the Mortgagee hereunder, and not collect any rents or the proceeds of any of the Leases more than thirty (30) days before the same shall be due and payable except as the Mortgagee may otherwise consent in writing, except for deposits by tenants of the Premises to secure such tenant's performance of its obligations under its lease.

1.12. Utilities. Mortgagor will pay all utility charges incurred in connection with the Collateral promptly when due and maintain all utility services available for use at the Premises.

1.13. Contract Maintenance: Other Agreements. Mortgagor will, for the benefit of Mortgagee, fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant, and restriction affecting the Premises or imposed on it under any agreement between Mortgagor and a third party relating to the Collateral or the Secured Obligations so that there will be no default thereunder and so that the persons (other than Mortgagor) obligated thereon shall be and remain at all times obligated to perform for the benefit of the Mortgagee. With respect to the Parking Parcel, Mortgagor will comply with all of the obligations imposed on Mortgagee by reason of any condominium declaration or condominium association bylaws applicable thereto.

1.14. No Assignments: Future Leases. Mortgagor will not cause or permit (by operation of law or otherwise) any Rents, Leases or other contracts, relating to the Premises to be assigned, to any party other than Mortgagee or Senior Lender, as defined in Section 4.11 hereof, without first obtaining the express written consent of Mortgagee to any such assignment or permit any such assignment to occur by operation of law. In addition, Mortgagor shall not cause or permit all or any portion of or interest in the Premises or the Improvements to be leased (that word

having the same meaning for purposes hereof as it does in the law of landlord and tenant) directly or indirectly to any person, except pursuant to written leases in the ordinary course of business. In no event may Mortgagor lease all or any portion of the Premises to any party which is an "Affiliate" without the express written consent of the Mortgagee. An "Affiliate" shall mean (a) any manager or member of Mortgagor or any member of the family of any member or manager of Mortgagor or (b) any entity in which interests are owned, directly or indirectly, by any member or manager of Mortgagor or by any entity in which any member or manager of Mortgagor has an ownership interest, or (c) any entity controlled in whole or in part by Mortgagor or any member or manager of Mortgagor.

1.15. Mortgagor To Comply With Leases. Mortgagor will at its own cost and expense:

- (a) Faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any leases of the Premises to be performed by the landlord thereunder;
- (b) Enforce or secure the performance of each and every material obligation, covenant condition and agreement of said leases by the tenants thereunder to be performed;
- (c) Not borrow against, pledge or further assign any rentals due under said leases, without the prior written consent of Mortgagee;
- (d) Not permit the prepayment of any rents due under any lease for more than thirty (30) days in advance nor for more than the next accruing installment of rents, nor anticipate, discount (other than front-end incentives such as rent abatement), compromise, forgive or waive any such rents;
- (e) Not waive, excuse, condone or in any manner release or discharge any tenants of or from the obligations, covenants, conditions and agreements by said tenants to be performed under the lease without the express prior written consent of Mortgagee;
- (f) Not terminate any lease or accept a surrender thereof or a discharge of the tenant unless required to do so by the terms of its lease or unless the Mortgagor and tenant or another equally financially responsible tenant shall have executed a new lease effective upon such termination for the same term of years at a rental not less than as provided in the terminated lease and on terms no less favorable to the landlord than as in the terminated lease;
- (g) Not consent to a subordination of the interest of any tenant to any party other than Mortgagee and then only if specifically consented to by the Mortgagee; and
- (h) Not amend or modify any lease or alter the obligations of the parties thereunder.

1.16. Mortgagee's Performance. If Mortgagor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs) and all applicable grace or cure periods have expired, Mortgagee may (but need not), as agent or attorney-in-fact of Mortgagor, make any payment or perform (or cause to be performed) any obligation of Mortgagor hereunder, in any form and manner deemed expedient by Mortgagee, and any amount so paid or expended (plus reasonable compensation to Mortgagee for its out-of-pocket and other expenses for each matter for which it acts under this Mortgage), with interest thereon (as provided in the Note or New Notes, as applicable), shall be added to the principal debt hereby secured and shall be repaid to Mortgagee within ten (10) days after written notice thereof.

1.17. Subrogation. To the extent that Mortgagee, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Mortgage, or Mortgagor or any other person pays any such sum with the proceeds of the loan secured hereby, Mortgagee shall have and be entitled to a lien or other interest on the Collateral equal in priority to the Lien or other interest discharged and Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit Mortgagee in securing the Secured Obligations.

II. DEFAULT

Each of the following shall constitute an event of default ("Event of Default") hereunder (including, if Mortgagor consists of more than one person or entity, the occurrence of any of such events with respect to any one or more of such persons or entities):

2.1. Payment or Performance.

(a) failure to make any payment of principal, interest, fees or any other amount due under the Secured Obligations within five (5) days after the date due; or

(b) failure to pay any of the other Secured Obligations, within five (5) days after the date the same shall become due and payable, whether at maturity or by acceleration or otherwise; or

(c) except as specifically set forth in any other provision of this Article II default in the timely and proper performance of any of the covenants or agreements of Mortgagor contained herein, and the continuation of such failure for thirty (30) days after written notice thereof is given to Mortgagee by Mortgagee;

(d) default in the performance of any of the covenants or agreements contained in the Note or New Notes, provided that to the extent (if any) that the Note or New Notes provide a grace or cure period with respect to such default, the same grace or cure period, and only such period, shall apply with respect thereto under this Mortgage; or

(e) a default or event of default under any one or more of the Senior Loan Documents, or event giving rise to the right of the holder of the Senior Loan Documents to accelerate the Senior Loan.

2.2. Receiver, Suspension, Attachment. The appointment, pursuant to an order of a court of competent jurisdiction, of a trustee, receiver or liquidator of the Collateral or any part thereof, or of Mortgagor, or any termination or voluntary suspension of the transaction of business of Mortgagor, or any attachment, execution or other judicial seizure of all or any substantial portion of Mortgagor's assets which attachment, execution or seizure is not discharged within ninety (90) days.

2.3. Miscellaneous. Without the prior written consent of Mortgagee in each case, (a) the dissolution or termination of existence of Mortgagor, voluntarily or involuntarily, or (b) the amendment or modification in any material respect of Mortgagor's corporate resolutions relating to this transaction or its articles of incorporation or bylaws.

2.4. Tax on Mortgage. The imposition of a tax, other than a state or federal income tax, on or payable by Mortgagee by reason of its ownership of either or both of the Note, or this Mortgage, and Mortgagor not promptly paying said tax, or it being illegal for Mortgagor to pay said tax.

2.5. Representations and Warranties. Any representation, warranty, or disclosure made to Mortgagee by Mortgagor in connection with or as an inducement to the making of the Loan evidenced by the Note and this Mortgage, providing to be false or misleading in any material respect as of the time the same was made.

2.6. Creditors' Rights. The Mortgagor shall fail to pay its debts, make an assignment for the benefit of its creditors; or shall commit an act of bankruptcy, or shall admit in writing its inability to pay its debts as they become due, or shall seek a composition, readjustment, assignment, liquidation, dissolution or insolvency proceeding under any present or future statute or law, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it, file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of its property, or any part hereof, in any proceedings for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee,

liquidator or receiver shall not be discharged or such jurisdiction shall not be relinquished, vacated or stayed within sixty (60) days of the appointment.

III. REMEDIES

3.1. **Acceleration.** Upon the occurrence of any Event of Default, the entire indebtedness evidenced by Note, the New Notes and all other Secured Obligations, together with interest thereon as provided in the Note or New Notes, shall at the option of any holder of the Note or any New Note, notwithstanding any provisions thereof upon notice to Mortgagor, but without presentment, demand or protest of any kind to Mortgagor or to any other person, become and be immediately due and payable.

3.2. **Remedies Cumulative.** No remedy or right of Mortgagee hereunder or under the Note or New Notes, as applicable, or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a 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. All obligations of Mortgagor, and all rights powers and remedies of Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in the Note or the New Notes or any other written agreement or instrument relating to any of the Secured Obligations or any security therefor.

3.3. **Foreclosure; Receiver.** Upon the occurrence of any Event of Default, Mortgagee shall also have the right immediately or at any time thereafter to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of Mortgagee or at any time thereafter, either before or after foreclosure sale, following notice to Mortgagor or to any party claiming under Mortgagor and without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of any of the Secured Obligations, without regard to the then value of the Premises or whether the same shall then be occupied, in whole or in part, as a homestead, by the owner of the equity of redemption, and without regarding any bond from the complainant in such proceedings, appoint a receiver for the benefit of Mortgagee, with power to take possession, charge, and control of the Premises, to lease the same to keep the buildings thereon insured and in good repair, and to collect ad Rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency, during any period of redemption.

The Court may, from time to time, authorize said receiver to apply the net amounts remaining in his hands, after deducting reasonable compensation for the receiver and his counsel as allowed by the court, in payment (in whole or in part) of any or all of the Secured Obligations, including without imitation the following: (a) amounts due upon the Note or New Notes, as applicable, (b) amounts due upon any decree entered in any suit foreclosing this Mortgage, (c) costs and expenses of foreclosure and litigation upon the Premises, (d) insurance premiums, repairs, impositions, water charges and interest, penalties and costs in connection with the Premises, (e) any other lien or charge upon the Premises that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same, and (f) all money advanced by Mortgagee to cure or attempt to cure any default by Mortgagor in the performance of any obligation or condition contained in the Note or New Notes, as applicable, or this Mortgage or otherwise, to protect the security hereof provided herein, with interest on such advances at the Default Rate, as defined in the Note. The excess of the proceeds of sale, if any, shall then be paid to Mortgagor. The proceeds of any foreclosure sale shall be applied by Mortgagee to the above amounts in such order and manner as Mortgagee may elect in a written notice to Mortgagor given on or before sixty (60) days following the confirmation of the sale, and in the absence of such election, first to the expenses of the sale, then to the expenses including attorneys' fees of the foreclosure proceeding, then to interest and then to principal.

This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Premises, as Mortgagee may elect, until all of the Premises have been foreclosed against and sold. As part of the foreclosure, Mortgagee in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Premises, and all right title, interest, claim and demand therein. Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers the property so sold, in the manner and form as provided by applicable law.

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In the case of any sale of the Premises pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Note or New Notes, as applicable, and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court all reasonable expenses of every kind paid or incurred by Mortgagee for the enforcement, protection or collection of this security, including court costs, attorneys, fees, stenographer's fees, advertising and costs of title insurance and any other documentary evidence of title, shall be paid by Mortgagor.

3.4. Remedies for Leases and Rents. If any Event of Default shall occur, then, whether before or after institution of legal proceedings to foreclose the lien of this Mortgage or before or after the sale thereunder, Mortgagee shall be entitled, in its discretion, to do all or any of the following:

- (a) take actual possession of the Leases and other Collateral relating thereto or any part thereof personally, or by its agents or attorneys;
- (b) take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;
- (c) as attorney-in-fact or agent of Mortgagor, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Leases and collect the Rents and other Collateral relating thereto and conduct the business, if any, thereof (including entering into new leases of the Premises, or any part thereof, under such terms and conditions as Mortgagee, in its sole and absolute discretion, may elect) either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the Rents, the Leases and other Collateral relating thereto (including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent);
- (d) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;
- (e) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- (f) make all reasonable and necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its reasonable discretion, may seem appropriate;
- (g) insure and reinsure the Collateral for all risks incidental to Mortgagee's possession, operation and management thereof; and
- (h) receive all such Rents and proceeds, and perform such other acts in connection with the management and operation of the Collateral, as Mortgagee in its sole discretion may deem necessary or desirable.

Mortgagor hereby grants Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after any Event of Default following notice to Mortgagor or any other person. Mortgagee in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may, in its sole and absolute discretion, determine: (a) to the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into Leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (b) to the payment of Impositions, charges and special assessments, the cost of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Collateral, including the cost from time to time of installing, replacing or repairing the Collateral, and of placing the Collateral in such condition as will, in the judgment of Mortgagee, make it readily rentable; (c) to the payment of any

Secured obligations; and (d) to the payment of any other cost or expense required or permitted hereunder, including without limitation those expenses set forth in subsections 3.4(i) through (vi) hereof.

3.5. Personal Property. Whenever there exists an Event of Default hereunder, Mortgagee may exercise from time to time any rights, Powers and remedies available to it under applicable law and as may be provided in this Mortgage or the Note or New Notes, as applicable, upon default in the payment of any indebtedness the Collateral and make it available to Mortgagee at such place or places, reasonably convenient for both Mortgagee and Mortgagor, as Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagor of any of the Collateral shall be deemed reasonably and properly given if given at least ten (10) days before such disposition.

Without limiting the foregoing, whenever there exist an Event of Default hereunder, Mortgagee may, with respect to so much of the Collateral as is personal property under applicable law, to the fullest extent permitted by applicable law, without further notice, advertisement hearing or process of law of any kind: (a) notify any person obligated on the Collateral to perform directly for Mortgagee its obligations thereunder, (b) enforce collection of any of the Collateral by suit or otherwise, and surrender, release or exchange all or any part thereof or compromise or extend or renew for any period (whether or not longer than the original period) any obligations of any nature of any party with respect thereto, (c) endorse any checks, drafts or other writings in the name of Mortgagor to allow collection of the Collateral, (d) take control of any proceeds of the Collateral; (e) enter upon any Premises where any of the Collateral may be located and take possession of and remove such Collateral, (f) sell any or all of the Collateral free of all rights and claims of Mortgagor therein and in respect to, at any public or private sale, and (g) bid for and purchase any or all of the Collateral at any such sale. Any proceeds of any disposition by Mortgagee of any of the Collateral may be applied by Mortgagee to the payment of expenses in connection with the Collateral, including reasonable attorneys, fees and legal expenses, and any balance of such proceeds shall be applied by Mortgagee toward the payment of such of the Secured Obligations and in such order of application as Mortgagee may from time to time elect.

Mortgagee may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code or other applicable law as in effect from time to time or otherwise available to it under applicable law. Mortgagor hereby expressly waives presentment, demand, notice of dishonor, protest and notice of protest in connection with the Note or New Notes, as applicable, and, to the fullest extent permitted by applicable law, any and all other notices, demands, advertisements, hearings or process of law in connection with the exercise by Mortgagor of any of its rights and remedies hereunder. Mortgagor hereby constitutes Mortgagee its attorney with full power of substitution to take possession of the Collateral upon any Event of Default and, as Mortgagee in its sole discretion deems necessary or proper, to execute and deliver all instruments required by Mortgagee to accomplish the disposition of the Collateral; this power of attorney is a power coupled with an interest and is irrevocable while any of the Secured Obligations are outstanding.

3.6. No Liability on Mortgagee. Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor and Mortgagor shall and does hereby agree to indemnify against and hold Mortgagee harmless of and from any and all liabilities, losses or damages which Mortgagee may incur or pay under or with respect to any of the Collateral or under or by reason of its exercise of rights hereunder and any and all claim and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Collateral or in any of the contracts, documents or instruments evidencing or creating any of the Collateral, unless such liability, claim, cost or demand is caused solely by Mortgagee's negligence or willful misconduct. The foregoing provisions to the contrary notwithstanding, Mortgagor shall have no obligation to indemnify Mortgagee for liabilities, losses or damages which Mortgagee incurs as a result of the negligence or willful misconduct of Mortgagee. Mortgagee shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other person. No liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted to it, and Mortgagor expressly waives and releases any such liability except for Mortgagee's negligence or willful misconduct. Should Mortgagee incur any such liability, loss or damage under any of the Leases or under or by reason hereof, or in the defense of any claims or demands, Mortgagor against to reimburse Mortgagee immediately upon demand for the full amount thereof, including costs, expenses and reasonable attorneys' fees.

IV. GENERAL

4.1. **Permitted Acts.** Mortgagor agrees that without affecting or diminishing in any way the liability of Mortgagor or any other person (except any person expressly released in writing by Mortgagee) for the payment or performance of any of the Secured Obligations or for the performance of any obligation contained herein or affecting the lien hereof upon the Collateral or any part thereof Mortgagee may at any time and from time to time, without notice to or the consent of any person, release any person liable for the payment or performance of any of the Secured Obligations, extend the time for, or agree to alter the term of payment of, any of the Secured Obligations; modify or waive any obligation; subordinate, modify or otherwise deal with the lien hereof, accept additional security of any land; release any Collateral or other properly securing any or all of the Secured Obligations; make releases of any portion of the Premises; consent to the making of any map or plat of the Premises; create or consent to the creation of any easements on the Premises or of any covenants restricting the use or occupancy thereof, or exercise or refrain from exercising or waive, any right Mortgagee may have hereunder or the Note or the New Notes.

4.2. **Legal Expenses.** Mortgagor agrees to indemnify Mortgagee and hold Mortgagee harmless from and against all loss, damage and reasonable expense, including (without limitation) reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Mortgagee may pay or incur in connection with any suit or proceeding in or to which Mortgagee may be made or become a party, which suit or proceeding affects this Mortgage or the validity, enforceability, lien or priority hereof or of any of the Secured Obligations or indebtedness secured hereby.

4.3. **Security Agreement; Fixture Filing.** This Mortgage, to the extent that it conveys or otherwise deals with personal property or with items of personal property which are or may become fixtures, shall also be considered as a security agreement under the Illinois Revised Uniform Commercial Code, and this Mortgage constitutes a financing statement filed as a fixture filing in the Official Records of the Cook County Recorder of Deeds with respect to any and all fixtures included within the term Collateral as used herein and with respect to any goods or other personal property that may now be or hereafter become such fixtures.

4.4. **Notices.** Except as otherwise provided herein all notices or other communications hereunder shall be sufficiently given and shall be deemed given when delivered by hand delivery, overnight courier service, telegram or facsimile followed by written confirmation, or on the second day after being sent, by registered or certified mail, first class postage prepaid, return receipt requested, addressed to the addresses set forth below, whether or not actually received or accepted by the addressee. Such notices shall be given as follows:

If to Mortgagor: Monroe Partners LLC
1140 West Monroe
Chicago, Illinois 60607

with a copy to: Andrew B. David
Sugar, Friedberg & Felsenthal
30 N. LaSalle Street, Suite 3000
Chicago, Illinois 60602

If to Mortgagee:
c/o Phillip C. Ryan
Ryan & Juraska
141 West Jackson Boulevard
Suite 3520
Chicago, IL 60604

Any party hereto may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

4.5. **Successors; Mortgagor; Gender.** All provisions hereof shall inure to and bind the parties and their respective successors, vendees and assigns. The word "Mortgagor" shall include all persons claiming under or through Mortgagor and all persons liable for the payment or performance of any of the Secured Obligations whether or not such

persons shall have executed the Note or New Notes, as applicable, or this Mortgage. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders. Mortgagee shall have the right to assign its rights under this Mortgage without the consent of Mortgagor, and the term "Mortgagee" shall include any party which at any time succeeds to the rights of any predecessor Mortgagee hereunder.

4.6. Care by Mortgagee. Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any of the Collateral in its possession if it takes such action for that purpose as Mortgagor requests in writing, but failure of Mortgagee to comply with any such request shall not be deemed to be (or to be evidence of) a failure to exercise reasonable care, and no failure of Mortgagee to preserve or protect any rights with respect to such Collateral against prior parties, or to do any act with respect to the preservation of such Collateral not so requested by Mortgagor shall be deemed a failure to exercise reasonable care in the custody or preservation of such Collateral.

4.7. Application of Payments. Notwithstanding anything to the contrary contained herein or in the Note or New Notes, as applicable, Mortgagee shall have the sole, exclusive and unreviewable right unilaterally (and without notice to or the consent of any person) to allocate any and all payments which may be received by or tendered to Mortgagee made by the Mortgagor or any other person (including without limitation, any guarantor now or hereafter existing) at any time or from time to time and which relate in any way to the sums advanced under the Note or hereunder in any order of priority as Mortgagee, in its sole and exclusive discretion determines to: (a) the payment of any costs and expenses incurred by Mortgagee to enforce any rights hereunder or under the Note or New Notes, as applicable, or to preserve or protect the Premises, (b) accrued but unpaid interest, penalties and late payment fees, or (c) principal.

4.8. Representation by Counsel. Mortgagor hereby represents and warrants that Mortgagor has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage and the Note, and that Mortgagor has read and understood this Mortgage and the Note and intends to be bound hereby.

4.9. No Obligation on Mortgagee. This Mortgage is intended only as security for the Secured Obligations. Anything herein to the contrary notwithstanding, (a) Mortgagor shall be and remain liable under and with respect to the Collateral to perform all of the obligations assumed by it under or with respect to each thereof, (b) Mortgagee shall have no obligation or liability under or with respect to the Collateral by reason of or arising out of this Mortgage and (c) Mortgagee shall not be required or obligated in any manner to perform or fulfill any of the obligations of Mortgagor under, pursuant to or with respect to any of the Collateral.

4.10. No Waiver: Writing. No delay on the part of Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Mortgagee of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy. The granting or withholding of consent by Mortgagee to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transaction.

4.11. Senior Mortgage: Subordination. Mortgagee acknowledges that the Collateral, exclusive of the Parking Parcel and the personalty related exclusively to the Parking Parcel (collectively, the Parking Collateral"), is subject to a Mortgage, Assignment of Rents and Leases, Security Agreement and Financing Statement (the "Senior Mortgage") dated November 9, 2001 in favor of LaSalle Bank, N.A. ("Senior Lender") to secure Mortgagor's indebtedness to Senior Lender in the original principal amount of \$2,300,000 (the "Senior Loan"), which Senior Mortgage was recorded with the Cook County Recorder of Deeds on December 6, 2001, as Document No. 0011155085. Mortgagor and Mortgagee agree that this Mortgage shall be subject and subordinate to the Senior Mortgage and any and all extensions, renewals and amendments thereof (so long as no such amendment results in an increase in the principal amount of the Senior Loan and all documents executed by Mortgagor in connection with the Senior Mortgage (the "Senior Loan Documents"). Mortgagee's rights hereunder with respect to all Collateral other than the Parking Collateral shall at all times be subject to the prior rights of Senior Lender under the Senior Loan Documents. In the event of any conflict between the obligations of Mortgagor hereunder and the obligations of Mortgagor under the Senior Loan Documents, the Senior Loan Documents shall control and govern. Mortgagor and Mortgagee agree that, upon the request of Senior Lender, they shall execute a subordination agreement and such other documents as may be required by Senior Lender to evidence the first priority of Senior Lender's lien on the Collateral, other than the Parking Collateral.

4.11.2 Refinance. Mortgagee agrees that Mortgagor shall have the right to refinance the loan evidenced by the Senior Loan Documents, provided that such refinancing shall (i) be in an amount not to exceed the outstanding principal balance due from Mortgagor to Senior Lender as of the date of such refinancing, (ii) provide for interest which is less than or equal to the rate of interest which accrues on the Senior Loan, (iii) provide for payments which, during any month, do not exceed the payments required to be made in such month under the Senior Loan Documents, and (iv) have a maturity no earlier than the maturity of the Senior Loan. Upon any such refinancing, the lender providing such financing (the "New Lender") shall have a first priority mortgage lien on the Collateral. Mortgagor and Mortgagee agree that, upon the request of the New Lender, they shall execute a subordination agreement and such other documents as may be required by the New Lender to evidence to first priority of the New Lender's lien on the Collateral.

IN WITNESS WHEREOF, the Mortgagor and the Mortgagee have caused these presents to be executed the day and year first written above.

MORTGAGOR:
MONROE PARTNERS LLC

MORTGAGEE:
OPTION FUNDING GROUP, L.P.

By: [Signature]
Its: Managing Member
J.M. McGinnis, Jr.
President
STATE OF Illinois)
) SS.
COUNTY OF COOK)

By: [Signature]
Its: General Partner, OFM, Inc.,
J.M. Murphy, President

I, William F. McGinnis a Notary Public in and for said County, in the State aforesaid, do hereby certify that J.M. Murphy, the President of the of Monroe Partners LLC, and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as the free and voluntary act of Monroe Partners LLC. * Managing Member

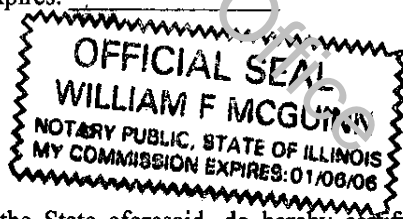
GIVEN under my hand and notarial seal, this 21st day of October, 2002.

NOTARY PUBLIC (SEAL)

[Signature]

My commission expires:

STATE OF Illinois)
) SS.
COUNTY OF Cook)



I, William F. McGinnis a Notary Public in and for said County, in the State aforesaid, do hereby certify that J.M. Murphy, the President of the of Option Funding Group, L.P., and who is personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he/she signed and delivered the said instrument as the free and voluntary act of Option Funding Group, L.P. * General Partner

GIVEN under my hand and notarial seal, this 21st day of October, 2002.

NOTARY PUBLIC (SEAL)

[Signature]
OFFICIAL SEAL
WILLIAM F MCGINNIS
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES: 01/08/06

UNOFFICIAL COPY

21175508

EXHIBIT A LEGAL DESCRIPTION

THE MONROE PARCEL:

SUBPARCEL 1: The West 72.38 feet of the following described tract: That part of Lots 48, 49, the East 1/2 of Lot 50, Lots 52, 53, 54 and 56 in Hayes Subdivision of Block 2 in Canal Trustees' Subdivision of the West 1/2 and the West 1/2 of the Northeast 1/4 of Section 17, Township 39 North, Range 14, East of the Third Principal Meridian, together with Lots 1 and 2 in Subdivision of Lot 51 and the West 1/2 of Lot 50 in Hayes Subdivision aforesaid, described as follows: Beginning at a point on the South line of said Lots, 143.50 feet East (as measured along the South line of said lots and their Westerly extension) of the East line of South Racine Avenue; thence East along the South line of said Lots, 192.52 feet; thence North 119.90 feet to a point on the North Line of said Lots 336.10 feet East (as measured along the North line of said Lots and their Westerly extension) of the East Line of South Racine Avenue; thence West along the North Line of said Lots 193.05 feet; thence South 119.72 feet to the point of beginning.

SUBPARCEL 2: Easement for the purpose of ingress and egress for the use and benefit of Parcel 1 as created by an Instrument dated April 27, 1979 and recorded May 1, 1979 as document no. 24941160 as amended by document 97809353 executed by James Spradelli and Chicago Casket Company, a corporation of Illinois, over and across all that part of vacated West Arcade Place lying North of and adjoining the North line of Lot 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49 in Hayes Subdivision of Block 2 in Canal Trustee's Subdivision of the West 1/2 and the West 1/2 of the Northeast 1/4 of Section 17, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 17-17-113-027
17-17-113-028
17-17-113-029
17-17-113-030

THE PARKING PARCEL:

Parking Units 11, 12, 13, 37, 42, 46, 47, 61 and 67 in the Daily News Condominium, as delineated on a survey attached as an exhibit to the Declaration of Condominium Ownership and of easements, restrictions, covenants and by-laws for the Daily News Condominium Association, made by Smithfield Properties IV, L.L.C., which was recorded on June 20, 2001 as document number 0010539003, together with its undivided percentage interest in the common elements, as amended from time to time, as located within Lots 54 through 59 (except the West 152.05 feet of Lot 59) in Rees and Ruckers Subdivision of Block 16 in Canal Trustees Subdivision of the West Half and the West Half of the Northeast Quarter of Section 17, Township 39 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 17-17-113-027
17-17-113-028
17-17-113-029
17-17-113-030