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Cook County Recorder

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Property of Cook County Clerk's Office

## ASSIGNMENT OF LEASES, RENTS AND PROFITS

THIS ASSIGNMENT OF LEASES, RENTS AND PROFITS ("Assignment") is made as of the 11 day of October, 2002, by ORLAND II, L.L.C., an Illinois limited liability company, and WPC-ORLAND II, L.L.C., a Delaware limited liability company (hereinafter collectively called "Assignor"), in favor of U.S. BANK NATIONAL ASSOCIATION, a national banking association ("Assignee").

### WITNESSETH:

WHEREAS, Assignee has agreed to make a construction loan to Assignor in a principal amount not to exceed Seventeen Million Six Hundred Thousand and 00/100 Dollars (\$17,600,000.00) (the "Loan") for the purpose of renovating a certain retail shopping center located in the Village of Orland Park, Illinois (as more specifically described hereinafter); and

WHEREAS, the Loan is evidenced by that certain Promissory Note of even date herewith (the "Note") made by Assignor and payable to the order of Assignee in an original principal amount not to exceed Seventeen Million Six Hundred Thousand and 00/100 Dollars (\$17,600,000.00), made pursuant to the terms and conditions contained in that certain Loan Agreement of even date herewith between Assignee and Assignor ("Loan Agreement") and secured by, among other documents and instruments, that certain Combination Mortgage, Security Agreement and Fixture Financing Statement of even date herewith (the "Mortgage") made by Assignor as "Mortgagor," to Assignee, as "Mortgagee," and encumbering the real property consisting of land located at 151st Street and LaGrange Road, Orland Park, Cook County, Illinois, legally described in Exhibit A

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attached hereto and incorporated herein by reference (the "Land"), and the improvements located thereon (the "Improvements") (the Land and Improvements are, collectively, the "Premises"); and

WHEREAS, as a condition of the Loan, Assignee requires this Assignment to secure the indebtedness of Assignor to Assignee, as well as to secure the performance and fulfillment of all other terms, covenants, conditions and warranties contained in the Note, the Mortgage, the Loan Agreement and the other Loan Documents (as defined in the Mortgage), and in any extensions, amendments, modifications, supplements or consolidations thereof.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor, jointly and severally, does hereby assign, transfer, set over and convey unto Assignee all of Assignor's right, title and interest in, to and under any and all leases, subleases or other tenancies or any agreement for the use or occupancy of the Premises, whether written or oral, which may now or at anytime hereafter exist, and any and all amendments, modifications, extensions, renewals and replacements thereof, upon all or any part of the Premises (hereinafter collectively referred to as the "Leases");

Together with any and all guaranties of tenants' performance under the Leases;

Together with the immediate and continuing right to collect and receive all of the rents, income, receipts, revenues, issues, proceeds and profits (hereinafter referred to as "Rents"), now due or which may hereafter become due or to which Assignor may now or may hereafter become entitled, or which Assignor may demand or claim, including those Rents coming due during any redemption period, arising or issuing from or out of the Leases or otherwise from or out of the Premises or any part thereof, including but not limited to additional rents, deficiency rents and liquidated damages following default, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability due to destruction or damage to the Premises, and all escrow accounts or security deposit accounts, together with any and all rights and claims of any kind Assignor may have against any tenant under the Leases or any subtenants or occupants of the Premises;

To have and to hold the same unto Assignee, its successors and assigns, until termination of this Assignment as hereinafter provided;

Subject, however, to the license hereby granted by Assignee to Assignor to collect and receive the Rents prior to the occurrence of an Event of Default (as hereinafter defined); provided, however, that this license is limited as hereinafter set forth.

In order to protect the security of this Assignment, Assignor covenants and agrees as follows:

1. Assignor's Representations and Warranties Concerning Leases and Rents. Assignor represents and warrants, as of the date hereof and as of all dates hereafter, that:

(a) Assignor has good title to the Leases and Rents hereby assigned and good right and authority to assign them, free from any act or other instrument that might limit

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Assignor's right to make this Assignment or Assignee's rights hereunder, and, except for such rights as have been previously assigned to Assignee as security for a loan to be repaid with proceeds of the aforesaid Loan, no other person, firm or corporation has any right, title or interest therein; and

(b) Except for such rights as have been previously assigned to Assignee as security for a loan to be repaid with proceeds of the aforesaid Loan, Assignor has not previously sold, assigned, transferred, mortgaged or pledged the Rents from the Premises, whether they are due now or to become due hereafter.

2. Assignor's Covenants of Performance. Assignor covenants and agrees to:

(a) Observe, perform and fulfill, duly and punctually, all of the obligations, terms, covenants, conditions and warranties of the Note, the Mortgage, the Loan Agreement, the other Loan Documents and the Leases that Assignor is to keep, observe and perform, and give prompt notice to Assignee of any failure on the part of Assignor to observe, perform and discharge the same;

(b) Give prompt notice to Assignee of any notice, demand or other document received by Assignor from any tenant or subtenant under the Leases specifying any default claimed to have been made by Assignor under the Leases;

(c) Enforce or secure the performance of each and every material obligation, term, covenant, condition and warranty in the Leases to be performed or fulfilled by any tenant;

(d) Appear in and defend any action or proceeding arising under, occurring out of or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor and any tenant thereunder;

(e) Pay all costs and expenses of Assignee, including attorneys' fees, in any action or proceeding in which Assignee may appear in connection herewith; and

(f) Neither create nor permit any lien, charge or encumbrance upon its interest in the Premises, Leases or Rents, or as lessor of the Leases, except for the lien of the Mortgage, the other Loan Documents or as otherwise provided in the Mortgage.

3. Prior Approval for Actions Affecting Leases. Assignor further covenants and agrees that it shall not, without the prior written consent of Assignee:

(a) Except for the collection of security deposits from the tenants, receive or collect any Rents, in cash or by promissory note, from any present or future tenant of the Premises, or any part thereof, for a period of more than one (1) month in advance of the date on which such payment is due, or further pledge, transfer, mortgage or otherwise encumber or assign the Leases or future payments of Rents, or incur any indebtedness, liability or other obligation to any tenant;

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(b) Waive, excuse, condone, abate, concede, discount, set off, compromise or in any manner release or discharge any tenant under any of the Leases of and from any material obligation, covenant, condition or warranty to be observed, performed or fulfilled by the tenants, including the obligation to pay the rents thereunder in the manner and at the place and time specified therein, other than in the exercise of Assignor's reasonable business judgment in the ordinary course of Assignor's operation of the Premises;

(c) Cancel, terminate or consent to any surrender of any of the Leases, permit any cancellation or termination, commence an action of ejectment or any summary proceedings for dispossession of any tenant under any of the Leases, or exercise any right of recapture provided in any of the Leases, or consent to any assignment of or subletting under any of the Leases, other than in the exercise of Assignor's reasonable business judgment in the ordinary course of Assignor's operation of the Premises; or

(d) Enter into any Lease or Leases of the Premises other than in accordance with the terms of the Loan Agreement.

At the request of Assignor from time to time, Assignee shall execute a customary and reasonable instrument providing that Assignee, its successors and assigns, and any purchaser at foreclosure shall recognize and not disturb the tenancy created by any lease of the Premises, so long as the tenant thereunder is not in default under the terms of its lease, subject to the conditions that such lease shall be fully and effectively subordinated to the terms of the Mortgage and that such tenant shall attorn to Assignee, its successors and assigns or such purchaser at foreclosure, as its landlord (without personal liability for acts or occurrences prior to the date Assignee; its successor or assigns or such purchaser at foreclosure, as the case may be, took possession of the Premises).

4. Rejection of Leases. In the event any lessee under the Leases should be the subject of any proceeding under the Federal Bankruptcy Act, or any other federal, state or local statute which provides for the possible termination or rejection of the Leases assigned hereby, Assignor covenants and agrees that if any of the Leases is so rejected, no settlement for damages shall be made without the prior written consent of Assignee, and any check in payment of damages for rejection of any such Lease will be made payable both to Assignor and Assignee. Subject to Assignor's license under Paragraph 6 hereof, Assignor hereby assigns any such payment to Assignee and further covenants and agrees, upon the request of Assignee, to endorse to the order of Assignee any such check, the proceeds of which will be applied to whatever portion of the indebtedness secured by this Assignment as Assignee may elect.

5. Default Deemed Default Under the Note, Mortgage and Other Agreements. In the event any representation or warranty of Assignor made herein shall be found to be untrue; or Assignor shall default in the performance or fulfillment of any obligation, term, covenant, condition or warranty herein, and such default is not cured within thirty (30) days after notice thereof from Assignee (or, with respect to a default under Paragraph 2(a) hereof, such longer cure period as may be permitted by the pertinent Loan Document), provided such thirty (30) day period shall be

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extended for so long as Assignor diligently prosecutes the curing thereof and, in fact, effects the curing thereof within sixty (60) days after such notice from Assignee, the same shall constitute an "Event of Default" hereunder and Assignee may, at its option, declare each such instance to be an "Event of Default" under this Assignment, the Note, the Mortgage, the Loan Agreement and/or the other Loan Documents, thereby entitling Assignee to declare all sums secured hereby and thereby immediately due and payable, and to exercise any and all of the rights and remedies provided thereunder and herein, as well as by law.

6. Right to Collect Rents. As long as there shall exist no Event of Default by Assignor in the payment of any indebtedness secured hereby, or in the performance or fulfillment of any other obligation, term, covenant, condition or warranty contained herein or in the Note, Mortgage, the Loan Agreement or the other Loan Documents, Assignor shall have the ability under a license granted hereby, but limited as provided in the following paragraph, to collect, but not prior to accrual, all of the Rents arising from or out of said Leases or any renewals, extensions and replacements thereof, or from or out of the Premises or any part thereof. Assignor shall receive such Rents and shall hold them as a trust fund to be applied as required under the terms and conditions of the Mortgage.

7. Enforcement and Termination of Right to Collect Rents. Upon or at any time after default in the payment of any indebtedness secured hereby, or in the performance or fulfillment of any obligation, term, covenant, condition or warranty contained herein, in the Note, the Mortgage, the Loan Agreement or the other Loan Documents, but provided that such default is not cured within the time period, if any, permitted for the curing of same in the applicable document and/or agreement, Assignee shall have, at its option and immediately upon notice of exercise to Assignee, the complete right, power and authority to exercise and enforce any or all of the following rights and remedies at any time:

(a) To terminate the license granted to Assignor to collect the Rents without taking possession, and to demand, collect, receive, sue for, attach and levy against the Rents in Assignee's own name; to give proper receipts, releases and acquittances therefor; and after deducting all necessary costs and expenses of operation and collection, including attorneys' fees, to apply the net proceeds thereof, together with any funds of Assignor deposited with Assignee, upon any indebtedness secured hereby in such order as Assignee may determine, and this Assignment shall constitute a direction to and full authority to any lessee, tenant or other third-party who has heretofore dealt or may hereafter deal with Assignor or Assignee, at the request and direction of Assignee, to pay all Rents owing under any Lease or other agreement to Assignee without proof of the default relied upon, and any such lessee, tenant or third-party is hereby irrevocably authorized to rely upon and comply with (and shall be fully protected by Assignor in so doing) any request, notice or demand by Assignee for the payment to Assignee of any Rents or other sums which may be or may thereafter become due under its Lease or other agreement, or for the performance of any undertakings under any such lease or other agreement, and shall have no duty to inquire as to whether any default hereunder or under the Loan Documents and/or other agreements has actually occurred or is then existing;



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(b) To declare all sums secured hereby immediately due and payable and, at its option, exercise all or any of the rights and remedies contained herein or in the Note, the Mortgage, the Loan Agreement or the other Loan Documents;

(c) Without regard to the adequacy of the security or the solvency of Assignor, with or without any action or proceeding through any person, by agent or by a receiver to be appointed by a court, and without regard to Assignor's possession, to enter upon, take possession of, manage and operate the Premises or any part thereof; make, modify, enforce, cancel or accept surrender of any Leases now or hereafter in effect on said Premises or any part thereof; remove and evict any lessee; increase or decrease rents; clean, maintain, repair or remodel the Premises; otherwise do any act or incur any costs or expenses that Assignee shall deem proper to protect the security hereof, as fully and to the same extent as Assignor could do if in possession; and apply Rents so collected in such order as Assignee shall deem proper to the payment of costs and expenses incurred by Assignee in enforcing its rights and remedies hereunder, including court costs and attorneys' fees, and to the payment of costs and expenses incurred by Assignee in connection with the operation and management of the Premises, including reasonable management and brokerage fees and commissions, and to the payment of the indebtedness evidenced by the Note and secured by the other Loan Documents; and

(d) Require Assignor to transfer all security deposits to Assignee, together with all records evidencing these deposits.

Provided, however, acceptance by Assignee of this Assignment, with all of the rights, powers, privileges and authority so created, shall not, prior to entry upon and taking possession of said Premises by Assignee, be deemed or construed to constitute Assignee a "Mortgagee in Possession," or words of similar affect, nor thereafter or at any time or in any event obligate Assignee to appear in or defend any action or proceeding relating to the Leases or to the Premises, to take any action hereunder, to expend any money, incur any expenses or perform or discharge any obligation, duty or liability under the Leases, or to assume any obligation or responsibility for any security deposits or other deposits delivered to Assignor by any lessee thereunder and not assigned and delivered to Assignee. Furthermore, Assignee shall not be liable in any way for any injury or damage to person or property sustained by any person or persons, firm or corporation in or about the Premises.

Provided further, however, collection of Rents and their application as aforesaid and/or the entry upon and taking possession of the Premises shall not cure or waive any default or waive, modify or affect any notice of default required under the Note, the Mortgage, the Loan Agreement or the other Loan Documents; or invalidate any act done pursuant to such notice.

The rights, powers and remedies conferred on Assignee hereunder (a) shall be cumulative and concurrent with and not in lieu of any other rights, powers and remedies granted to Assignee hereunder or under the Note, the Mortgage, the Loan Agreement or the other Loan Documents, or which may be available to Assignee at law or equity; (b) may be pursued separately, successively or concurrently against any assignor or the Premises; (c) may be exercised as often as occasion therefor shall arise, it being agreed by Assignor that the exercise or failure to exercise any of the

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same shall in no event be construed as a waiver or release thereof or of any other right, remedy or recourse; and (d) are intended to be, and shall be, non-exclusive.

8. Authority to Cure Default. Assignee shall have the right and option, at any time or from time to time, in its sole discretion (but under no circumstances shall it be required or obligated), to take in its name or in the name of Assignor such action as Assignee may determine to be necessary to cure any default of Assignor under any of the Leases, whether or not any applicable cure or grace period has expired. Assignor agrees to protect, defend, indemnify and hold harmless Assignee from and against any and all loss, cost, liability or expense (including, but not limited to, attorneys' fees and expenses) in connection with Assignee's exercise of its rights hereunder, with interest thereon at the Default Rate set forth in the Note.

9. INTENTIONALLY DELETED.

10. Indemnification. Assignor hereby agrees to defend, indemnify and hold Assignee harmless from any and all liability, loss, damage or expense that Assignee may incur under, or by reason or in defense of, any and all claims and demands whatsoever which may be asserted against Assignee arising out of the Leases, including, but not limited to, any claims by any tenants of credit for rental for any period under any Leases more than one (1) month in advance of the due date thereof paid to and received by Assignor but not delivered to Assignee. Such indemnity shall not extend to any such matters to the extent the same are the result of any affirmative act of Assignee which is judicially determined to constitute the gross negligence of, or willful misconduct by, Assignee. Should Assignee incur any such liability, loss, damage or expense, the amount thereof, including attorneys' fees, with interest thereon at the Default Rate set forth in the Note, shall be payable by Assignor within five (5) Business Days (as such term is defined in the Mortgage) after demand, and shall be secured as a lien hereby and by the Mortgage.

11. Records. Until the indebtedness secured hereby shall have been paid in full, Assignor shall deliver to Assignee copies of any and all fully executed Leases and all future Leases upon all or any part of the Premises, and will, if Assignee requests, specifically transfer and assign such Leases upon the same terms and conditions as herein contained, but Assignor acknowledges and agrees that such specific assignment and transfer shall not be required to make this Assignment operative with respect to such future Leases. Assignor hereby covenants and agrees to make, execute and deliver to Assignee, upon demand and at any time, any and all further or additional usual and customary assignments, documents and other records and instruments, including, but not limited to, rent rolls and books of account sufficient for the purpose that Assignee may deem to be necessary or advisable for carrying out the purposes and intent of, or otherwise to effectuate, this Assignment.

12. No Waiver. The failure of Assignee to avail itself of any of the terms, covenants and conditions of this Assignment for any period of time or at any time shall not be construed or deemed to be a waiver of any such right, and nothing herein contained nor anything done or omitted to be done by Assignee pursuant hereto shall be deemed a waiver by Assignee of any of its rights and remedies hereunder or under the Note, the Mortgage, the Loan Agreement, or the other Loan Documents, or the laws of the state in which the Premises are situated. The rights of Assignee to

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collect the indebtedness secured hereby, to enforce any other security therefor or to enforce any other right or remedy hereunder may be exercised by Assignee either prior to, simultaneously with, or subsequent to any other action taken hereunder and shall not be deemed an election of remedies.

13. Primary Security. Assignor agrees that this Assignment is primary in nature to the obligation evidenced and secured by the Note, the Mortgage, the Loan Agreement and the other Loan Documents, and any other document given to secure and collateralize the indebtedness secured hereby. Assignor further agrees that Assignee may enforce this Assignment without first resorting to or exhausting any other security or collateral; provided, however, nothing herein contained shall prevent Assignee from successively or concurrently suing on the Note, foreclosing the Mortgage or exercising any other right under any other document collateralizing the Note.

14. Merger. (i) The fact that the Leases or the leasehold estates created thereby may be held, directly or indirectly, by or for the account of any person or entity which shall have an interest in the fee estate of the Premises, (ii) the operation of law, or (iii) any other event, shall not merge any Leases or the leasehold estates created thereby with the fee estate in the Premises, as long as any of the indebtedness secured hereby and by the Note, the Mortgage, the Loan Agreement and the other Loan Documents shall remain unpaid, unless Assignee shall consent in writing to such merger.

15. Termination of Assignment. Upon payment in full of all of the indebtedness secured by the Note, the Mortgage, the Loan Agreement and the other Loan Documents, and all sums payable hereunder, Assignee shall execute and deliver a release of this Assignment. No judgment or decree entered as to said indebtedness shall operate to abrogate or lessen the effect of this Assignment until the indebtedness has actually been paid in full. The affidavit or certificate of any officer of Assignee showing that any part of said indebtedness has remained unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this Assignment. Any person, firm or corporation may, and is hereby authorized to, rely on such affidavit or certificate. A demand by Assignee to any tenant for payment of rents by reason of any default claimed by Assignee shall be sufficient direction to said tenant to make future payments of Rents to Assignee without the necessity for further consent by or notice to, Assignor.

16. Notice. All notices or other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given or made (unless otherwise required by the specific provisions thereof or by law in respect to any matter) when accepted or refused and shall be delivered via United States mail, registered or certified, return receipt requested, postage prepaid, or by personal delivery upon acceptance or rejection or by reputable overnight courier one (1) day after deposit, addressed as follows:

If to Assignor: Orland II, L.L.C.  
c/o HSA Commercial, Inc..  
180 North Wacker Drive  
Chicago, Illinois 60606  
Attention: Tim Blum



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With a copy to: J. Levin & Associates, Ltd.  
400 N. State Street  
Suite 460  
Chicago, Illinois 60610  
Attention: Jay Levin

If to Assignee: U.S. Bank National Association  
400 North Michigan Avenue  
Chicago, Illinois 60611  
Attention: Real Estate Banking Division

With a copy to: Ungaretti & Harris  
3500 Three First National Plaza  
Chicago, Illinois 60602  
Attention: Richard A. Ungaretti, Esq.

or addressed to any such party at such other address as such party shall hereafter furnish by written notice to the other party hereto, at least ten (10) days prior to the effective date of said change in address.

17. Successors. The terms, covenants, conditions and warranties contained herein and the powers granted hereby shall run with the land and shall inure to the benefit of and bind all parties hereto and their respective heirs, successors and assigns, all tenants and their subtenants and assigns, all subsequent owners of the Premises, all successors, transferees and assignees of Assignee and all subsequent holders of the Note and the Mortgage.

18. Additional Rights and Remedies. In addition to, but not in lieu of any other rights hereunder or under the Note, the Mortgage, the Loan Agreement or the other Loan Documents, Assignee shall have the right to institute suit and obtain a protective or mandatory injunction against Assignor to prevent a breach or default, or to enforce the observance of the agreements, covenants, terms and conditions contained herein, as well as the right to ordinary and punitive damages occasioned by any breach or default by Assignor.

19. Severability. If any provision of this Assignment, or the application thereof to any entity, person or circumstance, shall be invalid or unenforceable to any extent, the remainder of this Assignment, and the application of its provisions to other entities, persons or circumstances, shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

20. Third Party Beneficiaries. It is expressly agreed by Assignor that this Assignment shall not be construed or deemed made for the benefit of any third party or parties.

21. Entire Agreement. This document contains the entire agreement concerning the Assignment of Leases, Rents and Profits between the parties hereto. No variations, modifications or changes herein or hereof shall be binding upon any party hereto, unless set forth in a document duly executed by, or on behalf of, such party.

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22. Consent of Assignee. In the event Assignee is required to give its consent and/or approval to any action or request of Assignor under this Assignment, Assignee agrees such consent and/or approval shall not be unreasonably withheld or delayed.


23. Construction. Whenever used herein and the context requires it, the singular shall include the plural, the plural the singular, and any gender shall include all genders.

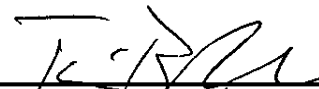
24. Governing Law. The parties agree that the laws of the State of Illinois shall govern the performance and enforcement of this Assignment.

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

ORLAND II, L.L.C.,  
an Illinois limited liability company

WPC-ORLAND II, LLC  
a Delaware limited liability company

By:   
Name: TIM BLUM  
Title: MANAGING MEMBER

By:   
Name: TIM BLUM  
Title: AUTHORIZED SIGNATORY

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

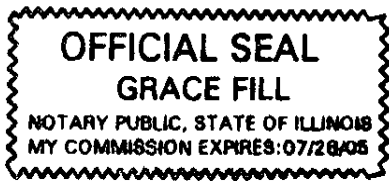
I, Grace Fill, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Timothy Blum, the Managing Member of ORLAND II, L.L.C., an Illinois limited liability company, personally known to me to be the same person whose name is subscribed to the foregoing instrument as such member, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein set forth.

Given under my hand and Notarial Seal this 7<sup>th</sup> day of October, 2002.

Grace Fill  
Notary Public

My Commission Expires:

7/28, 2005



This instrument was prepared by and after recording should be mailed to:

Patrick D. Thompson, Esq.  
Ungaretti & Harris  
3500 Three First National Plaza  
Chicago, Illinois 60602

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STATE OF ILLINOIS )  
 ) SS  
COUNTY OF Cook )

I, Grace Fill, a Notary Public in and for the County and State aforesaid,  
DO HEREBY CERTIFY that Timothy Blum, the Authorized Signer of WPC-ORLAND II,  
LLC, a Delaware limited liability company, personally known to me to be the same person whose  
name is subscribed to the foregoing instrument as such member, appeared before me this day in  
person and acknowledged that he signed and delivered the said instrument as his own free and  
voluntary act, and as the free and voluntary act of said company, for the uses and purposes therein  
set forth.

Given under my hand and Notarial Seal this 7<sup>th</sup> day of October, 2002.

Grace Fill  
Notary Public

My Commission Expires:  
7/28, 2005



This instrument was prepared by and  
after recording should be mailed to:

Patrick D. Thompson, Esq.  
Ungaretti & Harris  
3500 Three First National Plaza  
Chicago, Illinois 60602