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Lawyer's Title Insurance Corporation

**MORTGAGE, SECURITY AGREEMENT,
ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING**

made by

**ARCHIBALD CANDY CORPORATION,
as Mortgagor**

in favor of

**BNY MIDWEST TRUST COMPANY,
as trustee
as Mortgagee**

Dated as of November 1, 2002

**NOTICE: THIS INSTRUMENT CONTAINS, INTER ALIA, OBLIGATIONS WHICH
MAY PROVIDE FOR FUTURE ADVANCES WHICH WHEN MADE, SHALL HAVE
THE SAME PRIORITY AS ADVANCES MADE ON THE DATE HEREOF WHETHER
OR NOT (i) ANY ADVANCES WERE MADE ON THE DATE HEREOF, AND
(ii) INDEBTEDNESS IS OUTSTANDING AT THE TIME ANY ADVANCE IS MADE.**

**This Mortgage Was Prepared By and
When Recorded, Return to:**

**Josephine M. Greaves, Esq.
Ropes & Gray
One International Place
Boston, MA 02110-2624**



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MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT, ASSIGNMENT OF LEASES AND RENTS AND FIXTURE FILING (hereinafter, together with any and all amendments, supplements, modifications or restatements of any kind, referred to as this "Mortgage"), is entered into as of November 1, 2002, by ARCHIBALD CANDY CORPORATION, a Delaware corporation, as successor by merger to Archibald Candy Corporation, an Illinois corporation, with offices at 1137 West Jackson Boulevard, Chicago, Illinois 60607, Attention: President and Chief Operating Officer ("Mortgagor"), in favor of BNY MIDWEST TRUST COMPANY, an Illinois trust company as trustee for the benefit of the holders of the Notes (as hereinafter defined) with offices at 2 North LaSalle Street, Suite 1020, Chicago, Illinois 60602, Attention: Corporate Trust Administration (in such capacity, together with its successors and assigns, "Mortgagee").

RECITALS:

A. Pursuant to that certain Indenture of even date herewith (as the same now exists or may from time to time be amended, modified, supplemented, extended, renewed, restated or replaced, the "Indenture") among Mortgagor, Laura Secord Holdings Corp., Archibald Candy (Canada) Corporation, as guarantors (the "Guarantors") and BNY Midwest Trust Company, as trustee, Mortgagor has issued its 10% Secured Subordinated Notes due 2007, in the aggregate original principal amount of FIFTY MILLION AND NO/100 DOLLARS (\$50,000,000.00) (as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated, substituted for or replaced, the "Notes").

B. It is a condition precedent to the closing of the Indenture and the purchase of the Notes by the Holders that Mortgagor shall have executed and delivered to Mortgagee this Mortgage, and Mortgagor has determined that the execution, delivery and performance of this Mortgage directly benefit, and are in the best interest of, Mortgagee.

NOW, THEREFORE, in order to comply with the terms and conditions of the Indenture and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Mortgagor hereby agrees with Mortgagee as follows:

ARTICLE I

DEFINITIONS

Section 1.01 Terms Defined Above. As used in this Mortgage, the terms defined in the introductory paragraph to this Mortgage and the Recitals set forth above shall have the meanings respectively assigned to them.

Section 1.02 Definitions. As used herein, the following terms shall have the following meanings:

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“Applicable UCC” means the Uniform Commercial Code as presently in effect in the State or Commonwealth where the Mortgaged Property is located (except to the extent that the laws of any other jurisdiction govern the attachment, creation, validity, perfection or priority of the security interests granted hereby).

“Bankruptcy Code” means the United States Bankruptcy Code, as in effect from time to time.

“Buildings” means any and all buildings, structures, covered garages, utility sheds, workrooms, air conditioning towers, open parking areas and other improvements, and any and all additions, alterations, betterments or appurtenances thereto, now or at any time hereafter situated, placed or constructed upon the Land or any part thereof.

“Event of Default” has the meaning assigned to such term in Section 7.01.

“Fixtures” means all materials, supplies, equipment, apparatus and other items now or hereafter owned by Mortgagor and now or hereafter attached to, installed in or used in connection with (temporarily or permanently) any of the Buildings or the Land, including any and all partitions, dynamos, window screens and shades, drapes, rugs and other floor coverings, awnings, motors, engines, boilers, furnaces, pipes, plumbing, cleaning, call and sprinkler systems, fire extinguishing apparatus and equipment, gasoline pumps, water tanks, heating, ventilating, plumbing, laundry, incinerating, air conditioning and air cooling equipment and systems, gas and electric machinery, appurtenances and equipment, disposals, dishwashers, refrigerators and ranges, recreational equipment and facilities of all kinds, and water, gas, electrical, storm and sanitary sewer facilities and all other utilities whether or not situated in easements, together with all accessions, replacements, betterments and substitutions for any of the foregoing and the proceeds thereof.

“Governmental Authority” has the meaning assigned to such term in the Indenture.

“Governmental Requirements” means any and all present and future judicial decisions, statutes, rulings, rules, regulations, permits, certificates or ordinances of any Governmental Authority in any way applicable to Mortgagor or the Mortgaged Property including the ownership, use, occupancy, possession, operation, maintenance, alteration, repair or reconstruction thereof.

“Impositions” means all real estate and personal property taxes; water, gas, sewer, electricity and other utility rates and charges; charges for any easement, license or agreement maintained for the benefit of the Mortgaged Property; and all other taxes, charges and assessments and any interest, costs or penalties with respect thereto, general and special, ordinary and extraordinary, foreseen and unforeseen, of any kind and nature whatsoever which at any time prior to or after the execution hereof may be assessed, levied or imposed upon the Mortgaged Property or the ownership, use, occupancy or enjoyment thereof.

“Indemnified Parties” means, with respect to a Person entitled to the benefit of an indemnity, such Person’s officers, directors, employees, agents and attorneys-in-fact. The term “Indemnified Party” means any one of such Persons.

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"Land" means the real estate or interest therein described in Exhibit A attached hereto, and all rights, titles and interests appurtenant thereto.

"Leases" means any and all leases, master leases, subleases, licenses, concessions, or other agreements (written or oral, now or hereafter in effect) which grant to third parties a possessory interest in and to, or the right to use, all or any part of the Land, the Buildings, the Fixtures and/or the Personalty, together with all security and other deposits made in connection therewith and any guarantee of the obligations of the landlord or the tenant thereunder.

"License" has the meaning assigned to such term in Section 3.02(a).

"Lien" has the meaning assigned to such term in the Indenture.

"Losses" means all obligations, damages, claims, causes of action, costs, fines, fees, charges, penalties, deficiencies, losses, diminutions in value, expenses (including, without limitation, court costs, reasonable fees and expenses of attorneys, accountants, consultants and other experts) and other liabilities, and, with respect to any indemnity, includes reasonable attorneys' fees and expenses in connection with the enforcement and collection of such indemnity.

"Mortgaged Property" means all of Mortgagor's rights, titles, interests and estates, now owned or hereafter acquired, in and to the Land, the Buildings, the Fixtures, and the Personalty, together with:

- (i) all rights, privileges, tenements, hereditaments, rights-of-way, easements, air rights, development rights or credits, zoning rights, appendages and appurtenances in anywise appertaining thereto, and all rights, titles and interests of Mortgagor in and to any streets, ways, alleys, strips or gores of land adjoining the Land or any part thereof, and all rights, titles and interests of Mortgagor in and to all rights, royalties and profits with respect to all minerals, coal, oil, gas and other substances of any kind or character on or underlying the Land, together with all rights, titles and interests of Mortgagor in and to all water and water rights (whether riparian, appropriative or otherwise and whether or not appurtenant);
- (ii) all rights of Mortgagor (but not its obligations) under any contracts and agreements, including, without limitation, construction contracts and architectural agreements, relating to the Land, the Buildings, the Fixtures or the Personalty, but excluding contract rights under any contract or agreement containing a prohibition against assignment of or the granting of a security interest in the rights of Mortgagor thereunder if the violation of such prohibition would cause a termination of such contract or agreement;
- (iii) all of Mortgagor's rights, titles and interests in and to all permits, licenses, franchises, certificates, authorizations, consents, approvals and other rights and privileges (each, a "Permit") obtained in connection with the Land, the Buildings, the Fixtures or the Personalty or the use or operation thereof, but excluding all of Mortgagor's rights, titles and interests under any Permit which contains a prohibition against assignment of or the granting of a security interest in the rights

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of Mortgagor thereunder if the violation of such prohibition would cause a termination of such Permit;

- (iv) all of Mortgagor's rights, titles and interests in and to all plans and specifications, designs, schematics, drawings and other information, materials and matters heretofore or hereafter prepared relating to the Land, the Buildings, the Fixtures or the Personalty;
- (v) all of Mortgagor's rights, titles and interests in and to all proceeds arising from or by virtue of the sale, lease or other disposition of the Land, the Buildings, the Fixtures or the Personalty or any part thereof or any interest therein or from the operation thereof;
- (vi) all of Mortgagor's rights, titles and interests in and to all Leases now or hereafter in effect and all Rents or other benefits of the Land, the Buildings, the Fixtures or the Personalty;
- (vii) all of Mortgagor's rights, titles and interests in and to all betterments, additions, alterations, appurtenances, substitutions, replacements and revisions thereof and thereto and all reversions and remainders therein;
- (viii) all of Mortgagor's rights, titles and interests in and to any awards, remuneration, settlements or compensation heretofore made or hereafter to be made by any Governmental Authority pertaining to the Land, the Buildings, the Fixtures or the Personalty, including those for any vacation of, or change of grade in, any streets affecting the Land or the Buildings;
- (ix) all of Mortgagor's rights, titles and interests in and to any and all other security and collateral of any nature whatsoever, now or hereafter given for the repayment, performance and discharge of the Note Obligations;
- (x) all of Mortgagor's rights, titles and interests in and to all awards, payments and proceeds of conversion, whether voluntary or involuntary, of any of the Land, the Buildings, the Fixtures, the Personalty or any of the property and rights described in the foregoing clauses (i) through (ix), including without limitation, all insurance, condemnation and tort claims, rent claims and other obligations dischargeable in cash or cash equivalent; and
- (xi) all other property and rights of Mortgagor of every kind and character relating to and used or to be used in connection with the foregoing property, and all proceeds and products of any of the foregoing.

As used in this Mortgage, the term "Mortgaged Property" shall be expressly defined as meaning all or, where the context permits or requires, any portion of the above, and all or, where the context permits or requires, any interest therein.

"Mortgages" has the meaning assigned to such term in the Indenture.

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"Note Documents" means, collectively, the Indenture, the Notes and the Security Documents.

"Note Obligations" means all present and future liabilities, obligations and Indebtedness of the Mortgagor or any Guarantor owing to any Holder or the Trustee under or in connection with the Security Agreement or any other Note Document, including obligations in respect of principal, premium, interest, penalties, fees, indemnities, reimbursements, charges, expenses and other amounts from time to time owing under the Security Agreement or under any other Note Document (all whether accruing before or after a Bankruptcy Default and regardless of whether allowed as a claim in bankruptcy or similar proceedings).

"Permitted Liens" has the meaning assigned to such term in the Indenture.

"Person" has the meaning assigned to such term in the Loan Indenture.

"Personalty" means all of the right, title and interest of Mortgagor in and to all furniture, furnishings, equipment, machinery, goods, general intangibles, money, insurance proceeds, contract rights, option rights, inventory, all refundable, returnable or reimbursable fees, deposits or other funds or evidences of credit or indebtedness deposited by or on behalf of Mortgagor with any governmental agencies, boards, corporations, providers of utility services, public or private, including all refundable, returnable or reimbursable tap fees, utility deposits, commitment fees and development costs, and all other personal property (other than the Fixtures) of any kind or character as defined in and subject to the provisions of the Applicable UCC, which are now or hereafter located or to be located upon, within or about the Land and the Buildings, or which are or may be used in or related to the planning, development, financing or operation of the Mortgaged Property, together with all accessories, replacements and substitutions thereto or therefor and the proceeds thereof.

"Principal Balance" has the meaning assigned to such term in Section 7.02.

"Rents" means all of the rents, revenues, income, proceeds, profits, security and other types of deposits (after Mortgagor acquires title thereto), and other benefits paid or payable by parties (other than Mortgagor) for using, leasing, licensing, possessing, operating from, residing in, selling, or otherwise enjoying all or any part of the Land, the Buildings, the Fixtures and/or the Personalty.

"Senior Credit Facility" has the meaning assigned to such term in the Indenture.

"Senior Debt" has the meaning assigned to such term in the Indenture.

"Senior Debt Documents" has the meaning assigned to such term in the Indenture.

"Security Documents" has the meaning assigned to such term in the Indenture.

Section 1.03 Terminology. Unless expressly stated otherwise or the context requires otherwise:

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(a) references to Articles and Sections shall mean the corresponding Article or Section of this Mortgage;

(b) words used herein in the singular, where the context so permits, shall be deemed to include the plural and vice versa, and the definitions of words in the singular herein shall apply to such words when used in the plural where the context so permits and vice versa;

(c) the words "herein," "hereof," "hereunder," and other words of similar import when used in this Mortgage refer to this Mortgage as a whole, and not to any particular Article or Section; and

(d) the words "includes" or "including" mean includes or including, without limitation.

Section 1.04 Other Defined Terms. Any capitalized term used in this Mortgage and not defined herein shall have the meaning assigned to such term in the Indenture.

ARTICLE II

GRANT OF MORTGAGED PROPERTY, LIEN AND SECURITY INTEREST

Section 2.01 Grant of Lien. For good and valuable consideration and to secure the full and timely payment of an indebtedness in the principal sum of \$50,000,000.00 and the performance and discharge of the Note Obligations, Mortgagor hereby irrevocably GRANTS, BARGAINS, SELLS, ASSIGNS, TRANSFERS, MORTGAGES and CONVEYS unto Mortgagee and Mortgagee's successors and assigns, as trustee pursuant to the terms of the Indenture, with right of entry and possession, the real and personal property, rights, titles, interests and estates constituting the Mortgaged Property, subject, however, to the Permitted Liens; TO HAVE AND TO HOLD, subject to the terms and conditions of this Mortgage, the Mortgaged Property unto Mortgagee, and Mortgagee's successors and assigns, and Mortgagor does hereby bind itself, its successors and assigns to WARRANT AND FOREVER DEFEND the title to the Mortgaged Property unto Mortgagee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if Mortgagor shall pay (or cause to be paid) the Note Obligations as and when the same shall become due and payable and shall perform and discharge (or cause to be performed and discharged) the Note Obligations on or before the date the same are to be performed and discharged, then the liens, security interests, estates and rights granted by this Mortgage shall terminate, otherwise the same shall remain in full force and effect.

Section 2.02 Grant of Security Interest. This Mortgage shall be construed as a mortgage on real property and it shall also constitute and serve as a "Security Agreement" on personal property within the meaning of, and shall constitute a first and prior security interest under, the Applicable UCC with respect to the Personalty and the Fixtures. To this end, Mortgagor by these presents does GRANT, BARGAIN, CONVEY, ASSIGN, TRANSFER and SET OVER unto Mortgagee, as trustee pursuant to the Indenture, a security interest in all of Mortgagor's rights, titles and interests in, to and under the Personalty and the Fixtures, to secure the full and timely payment, performance and discharge of the Note Obligations. Mortgagor

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hereby consents to Mortgagee filing financing statements with the appropriate filing and recording offices in order to perfect the security interests granted herein.

Section 2.03 No Obligation of Mortgagee. The assignment and security interest herein granted shall not be deemed or construed to constitute Mortgagee as a mortgagee in possession of the Mortgaged Property, to obligate Mortgagee to lease the Mortgaged Property or attempt to do the same, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever.

Section 2.04 Fixture Filing. Without in any manner limiting the generality of any of the other provisions of this Mortgage: (a) some portions of the goods described or to which reference is made herein are or are to become fixtures on the land described or to which reference is made herein or on attached Exhibit A; (b) this Mortgage is to be filed of record in the real estate records as a financing statement and shall constitute a "fixture filing" for all purposes of the Applicable UCC; and (c) Mortgagor is the record owner of the real estate or interests in the real estate constituting the Mortgaged Property. Information concerning the security interest herein granted may be obtained at the addresses set forth on the first page hereof. The addresses of the Secured Party (Mortgagee) and of the Debtor (Mortgagor) are set forth on the first page hereof. In that regard, the following information is provided:

Name of Debtor: Archibald Candy Corporation
Type of Organization: Corporation
State of Organization: Delaware
FEIN: 03-0485114
Organizational ID Number: 3571992
Address of Debtor: 1137 West Jackson Boulevard
Chicago, Illinois 60607
Attention: President and Chief Operating Officer
Name of Secured Party: BNY Midwest Trust Company, as trustee
Address of Secured Party: 2 North LaSalle Street, Suite 1020
Chicago, Illinois 60602
Attention: Corporate Trust Administration

Section 2.05 Future Advances. It is the intention of Mortgagor and Mortgagee that this Mortgage (as renewed and extended from time to time) shall secure future advances which may be advanced from time to time from and after the date hereof pursuant to the terms of the Indenture, this Mortgage or any of the other Note Documents and this Mortgage shall attach upon execution and have priority from the time of recording as to all such advances, whether obligatory or discretionary, until this Mortgage is released of record.

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Section 2.06 Intentionally Omitted.

ARTICLE III

ASSIGNMENT OF LEASES AND RENTS

Section 3.01 Assignment. For Ten Dollars (\$10.00) and other good and valuable consideration, including the indebtedness evidenced by the Indenture, the receipt and sufficiency of which are hereby acknowledged and confessed, intending to be legally bound hereby, Mortgagor has presently, absolutely and irrevocably GRANTED, BARGAINED, SOLD, ASSIGNED and CONVEYED, and by these presents does presently, absolutely and irrevocably GRANT, BARGAIN, SELL, ASSIGN and CONVEY unto Mortgagee, as trustee pursuant to the terms of the Indenture, as security for the payment, performance and discharge of the Note Obligations, the Leases and the Rents subject only to the Permitted Liens applicable thereto and the License (herein defined); TO HAVE AND TO HOLD the Leases and the Rents unto Mortgagee, forever, and Mortgagor does hereby bind itself, its successors and assigns to warrant and forever defend the title to the Leases and the Rents unto Mortgagee against every person whomsoever lawfully claiming or to claim the same or any part thereof; provided, however, that if Mortgagor shall pay, or cause to be paid, and perform and discharge, or cause to be performed and discharged, the Note Obligations on or before the date the same are to be paid, performed and discharged, then this assignment shall terminate and be of no further force and effect, and all rights, titles, and interests conveyed pursuant to this assignment shall become vested in Mortgagor without the necessity of any further act or requirement by Mortgagor or Mortgagee.

Section 3.02 Limited License.

(a) Mortgagee hereby grants to Mortgagor a limited license (the "License"), nonexclusive with the rights of Mortgagee reserved in Section 3.05 hereof, to exercise and enjoy all incidences of the status of a lessor of the Leases and the Rents, including, without limitation, the right to collect, demand, sue for, attach, levy, recover, and receive the Rents and to give proper receipts, releases and acquittances therefor. Mortgagor hereby agrees to receive all Rents and hold the same as a trust fund to be applied, and to apply the Rents so collected, except to the extent otherwise provided in the Indenture, first to the payment, performance and discharge of the Note Obligations and then to the payment of the Impositions. Thereafter, Mortgagor may use the balance of the Rents collected in any manner not inconsistent with the Note Documents.

(b) If an Event of Default shall occur, the License shall immediately and automatically terminate, without the necessity of any action by any Person, and Mortgagee shall have the right in such event to exercise the rights and remedies provided under this Mortgage or otherwise available to Mortgagee under applicable law. If an Event of Default shall occur, then, upon demand by Mortgagee, Mortgagor shall promptly pay to Mortgagee all security deposits under the Leases then held by Mortgagor and all Rents allocable to any period commencing from and after the occurrence of such Event of Default. Any Rents received hereunder by Mortgagee shall be applied and disbursed to the payment, performance and discharge of the Note Obligations, subject to the terms of the Indenture; provided that, subject to any applicable requirement of law, any security deposits actually received by Mortgagee shall be held, applied and disbursed as provided in the applicable Leases.

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Section 3.03 Enforcement of Leases. Mortgagor shall (a) submit any and all proposed Leases entered into after the date hereof to Mortgagee for approval prior to the execution thereof, which approval shall not be unreasonably withheld or delayed, (b) duly and punctually perform and comply with any and all representations, warranties, covenants, and agreements expressed as binding upon Mortgagor under any Lease, (c) to the extent within the control of Mortgagor, maintain each of the Leases in full force and effect during the term thereof, (d) appear in and defend any action or proceeding in any manner connected with any of the Leases, (e) deliver to Mortgagee copies of all Leases upon written request therefor, and (f) deliver to Mortgagee such further information, and execute and deliver to Mortgagee such further assurances and assignments, with respect to the Leases as Mortgagee may from time to time request. Without Mortgagee's prior written consent, Mortgagor shall not (i) do or knowingly permit to be done anything to impair the value of any of the Leases, (ii) except for security or similar deposits, collect any of the Rent more than one (1) month in advance of the time when the same becomes due under the terms of any Lease, (iii) discount any future accruing Rents, (iv) except to the extent Mortgagor is acting in the ordinary course of business and in a commercially reasonable manner, amend, modify or terminate any of the Leases, or (v) assign or grant a security interest in or to the License or any of the Leases or Rents.

Section 3.04 Direction to Tenants. Upon the occurrence and during the continuance of an Event of Default, Mortgagor hereby authorizes and directs, and shall, at the direction of Mortgagee, further authorize and direct, in writing, the tenant under each Lease to pay directly to, or as directed by, Mortgagee all Rents accruing or due under its Lease without proof to the tenant of the occurrence and continuance of such Event of Default. Mortgagor hereby authorizes the tenant under each Lease to rely upon and comply with any notice or demand from Mortgagee for payment of Rents to Mortgagee and Mortgagor shall have no claim against any tenant for Rents paid by such tenant to Mortgagee pursuant to such notice or demand.

Section 3.05 Appointment of Attorney-in-Fact.

(a) Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney-in-fact, coupled with an interest, of Mortgagor and Mortgagor hereby confers upon Mortgagee the right, in the name, place and stead of Mortgagor, to, after the occurrence and during the continuance of an Event of Default, demand, sue for, attach, levy, recover and receive any of the Rents and any premium or penalty payable upon the exercise by any third party under any Lease of a privilege of cancellation originally provided in such Lease and to give proper receipts, releases and acquittances therefor and, after deducting expenses of collection, to apply the net proceeds as provided in the Indenture; and Mortgagor does hereby authorize and direct any such third party to deliver such payment to Mortgagee in accordance with this Article III, and Mortgagor hereby ratifies and confirms all that its said attorney-in-fact, the Mortgagee, shall do or cause to be done by virtue of the powers granted hereby. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Mortgagee, its successors and assigns, so long as any part of the Note Obligations secured hereby remain unpaid or unperformed and undischarged.

(b) Mortgagor hereby constitutes and appoints Mortgagee the true and lawful attorney-in-fact, coupled with an interest, of Mortgagor and Mortgagor hereby confers upon Mortgagee the right, in the name, place and stead of Mortgagor, to subject and subordinate at any

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time and from time to time any Lease or any part thereof to the lien, assignment and security interest of this Mortgage, or any other mortgage, deed of trust, assignment or security agreement, or to any ground lease or surface lease, with respect to all or a portion of the Mortgaged Property, or to request or require such subordination, where such reservation, option or authority was reserved to Mortgagor under any such Lease, or in any case where Mortgagor otherwise would have the right, power or privilege so to do. The foregoing appointment is irrevocable and continuing, and such rights, powers and privileges shall be exclusive in Mortgagee, its successors and assigns, so long as any part of the Note Obligations secured hereby remain unpaid or unperformed and undischarged. Mortgagor hereby covenants not to exercise any such right to subordinate any Lease to this Mortgage or to any other mortgage, deed of trust, assignment or security agreement or to any ground lease or surface lease after the date hereof.

Section 3.06 No Liability of Mortgagee. Neither the acceptance hereof nor the exercise of the rights and remedies hereunder nor any other action on the part of Mortgagee or any Person exercising the rights of Mortgagee hereunder shall be construed to (a) be an assumption by Mortgagee or any such Person or to otherwise make Mortgagee or such Person liable or responsible for the performance of any of the obligations of Mortgagor under or with respect to the Leases or for any Rent, security deposit or other amount delivered to Mortgagor; provided that Mortgagee or any such Person exercising the rights of Mortgagee shall be accountable for any Rents, security deposits or other amounts actually received by Mortgagee or such Person, as the case may be; or (b) obligate Mortgagee or any such Person to take any action under or with respect to the Leases or with respect to the Mortgaged Property, to incur any expense or perform or discharge any duty or obligation under or with respect to the Leases or with respect to the Mortgaged Property, to appear in or defend any action or proceeding relating to the Leases or the Mortgaged Property, to constitute Mortgagee as a mortgagee-in-possession (unless Mortgagee actually enters and takes possession of the Mortgaged Property), or to be liable in any way for any injury or damage to persons or property sustained by any Person in or about the Mortgaged Property, other than to the extent caused by the willful misconduct or gross negligence of Mortgagee or any Person exercising the rights of Mortgagee hereunder.

Section 3.07 Mortgagor's Indemnities. Mortgagor hereby agrees to protect, indemnify and hold harmless Mortgagee, each Holder and each of their respective Indemnified Parties from and against any and all Losses which Mortgagee, any such Holder or any such Indemnified Party may incur under or by reason of this Article III, or for any action taken by Mortgagee, any such Holder or any such Indemnified Party hereunder, or by reason or in defense of any and all claims and demands whatsoever which may be asserted against Mortgagee, any such Holder or any such Indemnified Party arising out of the Leases, including specifically, but without limitation, any claim by any third party for credit on account of Rents paid to and received by Mortgagor, but not delivered to Mortgagee or its agents, representatives or employees, for any period under any Lease more than one (1) month in advance of the due date thereof. The foregoing notwithstanding, Mortgagor shall have no obligation to Mortgagee, any Holder or any Indemnified Party under this Section 3.07 with respect to any Losses that a court of competent jurisdiction finally determines to have resulted from the gross negligence or willful misconduct of Mortgagee, such Holder or such Indemnified Party, as the case may be. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO MORTGAGEE, EACH HOLDER AND EACH INDEMNIFIED PARTY WITH RESPECT TO LOSSES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY**

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NEGLIGENT ACT OR OMISSION OF MORTGAGEE, SUCH HOLDER, SUCH INDEMNIFIED PARTY OR OF ANY OTHER PERSON. In the event that Mortgagee, any Holder or any Indemnified Party incurs any Losses covered by the indemnity set forth in this Section 3.07, the amount thereof, including reasonable attorneys' fees, with interest thereon at the rate set forth in the Indenture and the Notes, shall be payable by Mortgagor to Mortgagee within ten (10) days' after written demand therefor, and shall be secured hereby and by all other security for the payment and performance of the Note Obligations, including specifically, but without limitation, the lien and security interest of this Mortgage. The liabilities of Mortgagor as set forth in this Section 3.07 shall survive the termination of this Mortgage and the repayment of the Note Obligations.

Section 3.08 No Modification of Mortgagor's Obligation. Nothing herein contained shall modify or otherwise alter the obligation of Mortgagor to make prompt payment of all Note Obligations as and when the same become due regardless of whether the Rents described in this Article III are sufficient to pay the Note Obligations, and the rights provided in accordance with this Article III shall be cumulative of all other security of any and every character now or hereafter existing to secure payment of the Note Obligations.

ARTICLE IV

WARRANTIES AND REPRESENTATIONS

Mortgagor hereby unconditionally warrants and represents to Mortgagee as follows:

Section 4.01 Title to Mortgaged Property and Lien of this Instrument. Mortgagor has good and marketable fee simple title to the Land and the Buildings, and has good and marketable title to the Fixtures, the Personalty and the other Mortgaged Property. The Mortgaged Property is free and clear of any and all Liens, except the Permitted Liens.

Section 4.02 Taxes and Other Payments. Mortgagor will file all federal, state, county, municipal and city income and other tax returns required to be filed by it and will pay all taxes and other Impositions which become due pursuant to such returns or pursuant to any assessments or charges received by it, and Mortgagor does not know of any basis for any additional assessment or charge in respect of any such taxes or other Impositions. Mortgagor has paid in full all sums owing or claimed for labor, material, supplies, personal property (whether or not forming a Fixture hereunder) and services of every kind and character used, furnished or installed in or on the Mortgaged Property that are due and owing and no claim for same exists or will be permitted to be created, except such claims that arise in the ordinary course of business and are not yet past due.

Section 4.03 Power to Create Lien and Security. Mortgagor has full power and lawful authority to grant, bargain, sell, assign, transfer, mortgage and convey a Lien and security interest in all of the Mortgaged Property in the manner and form herein provided and without obtaining the authorization, approval, consent or waiver of any grantor, lessor, sublessor, Governmental Authority or other party or parties whomsoever.

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Section 4.04 Indenture. Mortgagor has received a copy of and is fully familiar with the terms and provisions of the Indenture. All representations and warranties made by Mortgagor in the Indenture are incorporated herein by reference and are hereby made by Mortgagor as to itself and the Mortgaged Property as though such representations and warranties were set forth at length herein as the representations and warranties of Mortgagor.

ARTICLE V

AFFIRMATIVE COVENANTS

Mortgagor hereby unconditionally covenants and agrees with Mortgagee as follows:

Section 5.01 Lien Status. Except as otherwise expressly provided in the Indenture, Mortgagor shall not place, or permit to be placed, or otherwise mortgage, hypothecate or encumber the Mortgaged Property, or any portion thereof or interest therein, with any other Lien or security interest of any nature whatsoever (statutory, constitutional or contractual), other than Permitted Liens, regardless of whether such Lien or security interest is allegedly or expressly inferior to the Lien and security interest created by this Mortgage, and if any such Lien or security interest is asserted against the Mortgaged Property, Mortgagor shall promptly, at its own cost and expense, (a) pay the underlying claim in full (except for so long as such claim is being contested by Mortgagor in good faith and in accordance with the terms of the Indenture) or take such other action as may be necessary to cause the same to be released and (b) within five (5) days after the date on which such Lien or security interest is so asserted, give Mortgagee notice of such Lien or security interest. Such notice shall specify who is asserting such Lien or security interest and shall detail the origin and nature of the underlying claim giving rise to such asserted Lien or security interest.

Section 5.02 Payment of Impositions. Mortgagor shall duly pay and discharge, or cause to be paid and discharged, all Impositions prior to the date on which the same become delinquent or the day on which any fine, penalty, interest or cost may be added thereto or imposed, or the day on which any Lien may be filed for the nonpayment thereof (if such day is used to determine the due date of the respective item); provided, however, that Mortgagor may, if permitted by applicable law and if such installment payment would not create or permit the filing of a Lien against the Mortgaged Property, pay the Impositions in installments whether or not interest shall accrue on the unpaid balance of such Impositions. Notwithstanding the foregoing, Mortgagor may withhold payment of any Imposition if, in each case, the validity or amount thereof is being contested as permitted by the terms of the Indenture.

Section 5.03 Repair. Mortgagor shall keep the Mortgaged Property in good order and condition, ordinary wear and tear excepted, in accordance with Section 4.15 of the Indenture and shall make all repairs, replacements, and improvements thereof and thereto, interior and exterior, structural and non-structural, ordinary and extraordinary, which are necessary to keep the same in such order and condition. Mortgagor shall also use reasonable efforts to prevent any act or occurrence which might impair the value or usefulness of the Mortgaged Property for its intended usage.

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Section 5.04 Insurance and Application of Insurance Proceeds.

(a) During the term of this Mortgage, Mortgagor, at its sole cost and expense, shall maintain, or cause to be maintained, such property, liability and other insurance with respect to the Mortgaged Property as required pursuant to the terms of the Indenture or, if applicable, such greater insurance coverage or coverages as required by the Leases. All such insurance policies with respect to the Mortgaged Property shall contain a standard, non-contributory mortgagee clause naming Mortgagee, its successors and assigns, as an additional insured under all liability insurance policies, as mortgagee and loss payee on all property insurance policies, and as the loss payee on all rental loss or business interruption insurance policies. Mortgagor shall not take out separate insurance with respect to the Mortgaged Property concurrent in form or contributing in the event of loss with that required to be maintained under the Indenture unless Mortgagee is named as an additional insured party thereon under a standard mortgagee clause reasonably acceptable to Mortgagee and each such policy is otherwise in form and substance reasonably acceptable to Mortgagee.

(b) In the event of the foreclosure of this Mortgage, or in the event of any transfer of title to the Mortgaged Property, or any part thereof, by foreclosure sale, or by power of sale, or deed in lieu of foreclosure, the purchaser of the Mortgaged Property, or such part thereof, shall succeed to all of Mortgagor's rights with respect to the Mortgaged Property, including any rights to unexpired, unearned or returnable insurance premiums, subject to limitations on the assignment of blanket policies, but limited to such rights as relate to the Mortgaged Property or such part thereof. If Mortgagee acquires title to any lot, parcel or tract of the Mortgaged Property, or any part thereof, in any manner, Mortgagee shall thereupon (as between Mortgagor and Mortgagee) become the sole and absolute owner of the insurance policies with respect to such lot, parcel or tract of the Mortgaged Property, and all insurance proceeds payable thereunder with respect to such lot, parcel or tract of the Mortgaged Property, with the sole right to collect and retain all unearned or returnable premiums thereon with respect to such lot, parcel or tract of the Mortgaged Property, or such part thereof, if any.

(c) If any damage to, destruction or loss of or other casualty with respect to any of the Mortgaged Property shall occur, Mortgagor shall file and prosecute its claim or claims for any insurance proceeds in good faith and with due diligence and the same shall be applied in accordance with the terms and conditions of the Indenture, and, in the case of a loss in excess of \$50,000.00, Mortgagor hereby irrevocably authorizes and empowers Mortgagee, in the name of Mortgagor or otherwise, to collect and receipt for any such insurance proceeds and to adjust any insurance claims and to file and prosecute such claim or claims. Although it is hereby expressly agreed that the same shall not be necessary in any event, Mortgagor shall, upon demand of Mortgagee, make, execute and deliver any and all assignments and other instruments sufficient for the purpose of assigning any such insurance proceeds to Mortgagee to the extent the same are to be paid to Mortgagee under the terms of the Indenture, free and clear of any Liens whatsoever. Mortgagor hereby irrevocably appoints Mortgagee as Mortgagor's attorney-in-fact for each such purpose (which appointment is coupled with an interest) and authorizes any Person to act upon the foregoing appointment.

(d) Following any damage to, destruction or loss of or other casualty with respect to any of the Mortgaged Property, Mortgagee shall apply the entire amount of any

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insurance proceeds in accordance with the provisions of the Indenture or, if there is no provision contained in the Indenture governing how the same are to be applied, then Mortgagee shall apply the entire amount thereof to the payment of the Note Obligations, whether or not then due and payable, in such order or manner as Mortgagee may elect. Notwithstanding any damage to, destruction or loss of or other casualty with respect to any of the Mortgaged Property, Mortgagor shall continue to pay the Note Obligations at the time and in the manner provided for in the Indenture and the other Note Documents, and the Note Obligations shall not be reduced until, and then only to the extent that, any insurance proceeds shall have been actually received and applied by Mortgagee to the discharge of the Note Obligations. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by Mortgagee of such insurance proceeds, Mortgagee shall have the right, whether or not a deficiency judgment on any Loan Document shall have been sought, recovered or denied, to receive such insurance proceeds, or a portion thereof sufficient to pay the Note Obligations, whichever is less.

Section 5.05 Condemnation and Application of Condemnation Proceeds.

(a) Promptly upon its obtaining knowledge of the institution or written notice of the threatened institution of any proceeding for the condemnation of the Mortgaged Property or any part thereof, Mortgagor shall notify Mortgagee of such fact. Mortgagor shall then, if requested by Mortgagee, file or defend its claim thereunder and prosecute same with due diligence to its final disposition and shall cause any awards or settlements to be paid over to Mortgagee for disposition pursuant to the terms of this Mortgage. Mortgagee shall be entitled to participate in any such proceeding, and Mortgagor shall deliver or cause to be delivered to Mortgagee such instruments as may be requested by Mortgagee from time to time to permit such participation.

(b) If the Mortgaged Property or any part thereof is taken or diminished in value, or if a consent settlement is entered by or under threat of such proceeding, the award or settlement payable to Mortgagor by virtue of its interest in the Mortgaged Property shall be, and by these presents is, assigned, transferred and set over unto Mortgagee to be held by Mortgagee, subject to the Lien and security interest of this Mortgage, and disbursed in accordance with the provisions of the Indenture or, if there is no provision contained in the Indenture governing how the same is to be disbursed, then Mortgagee shall apply the entire amount thereof to the payment of the Note Obligations, whether or not then due and payable, in such order or manner as Mortgagee may elect. Notwithstanding any condemnation or taking of any of the Mortgaged Property, Mortgagor shall continue to pay the Note Obligations at the time and in the manner provided for in the Indenture and the other Note Documents, and the Note Obligations shall not be reduced until, and then only to the extent that, any condemnation award or settlement shall have been actually received and applied by Mortgagee to the discharge of the Note Obligations. If the Mortgaged Property is sold, through foreclosure or otherwise, prior to the receipt by Mortgagee of such condemnation award or settlement, Mortgagee shall have the right, whether or not a deficiency judgment on any Loan Document shall have been sought, recovered or denied, to receive such condemnation award or settlement, or a portion thereof sufficient to pay the Note Obligations, whichever is less.

Section 5.06 Maintenance of Rights of Way, Easements, and Licenses. Mortgagor shall maintain, preserve and renew all rights of way, easements, grants, privileges, licenses and

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franchises reasonably necessary for the use and operation of the Mortgaged Property from time to time and Mortgagor shall not, without the prior written consent of Mortgagee (which consent shall not be unreasonably withheld, conditioned or delayed), initiate, join in or consent to any private restrictive covenant or other public or private restriction as to the use of the Mortgaged Property. Mortgagor shall, however, comply with all restrictive covenants which may at any time affect the Mortgaged Property, all applicable zoning ordinances and all other public or private restrictions as to the use of the Mortgaged Property. 0021222691

Section 5.07 Payment and Performance of Note Obligations. Mortgagor shall duly and punctually pay and perform all of the Note Obligations. All covenants made by Mortgagor in the Indenture are incorporated herein by reference and are hereby made by Mortgagor as to itself and the Mortgaged Property as though such covenants were set forth at length herein as the covenants of Mortgagor.

ARTICLE VI

NEGATIVE COVENANTS

Mortgagor hereby covenants and agrees with Mortgagee that, until the entire Note Obligations shall have been paid in full and all of the Note Obligations shall have been fully performed and discharged:

Section 6.01 Use Violations. Mortgagor shall not use, maintain, operate or occupy, or allow the use, maintenance, operation or occupancy of, the Mortgaged Property in any manner which (a) violates any Governmental Requirement, (b) may be dangerous unless safeguarded as required by applicable law, (c) constitutes a public or private nuisance, or (d) makes void, voidable or cancelable, or increases the premium of, any insurance then in force with respect thereto.

Section 6.02 Waste. Mortgagor shall not commit or permit any waste with respect to the Mortgaged Property.

Section 6.03 Alterations. Mortgagor shall notify Mortgagee in writing and in advance of any proposed alterations, improvements or additions to the Mortgaged Property which are of a material nature.

Section 6.04 No Further Encumbrances. Mortgagor shall not, without the prior written consent of Mortgagee, create, place or permit to be created or placed, or through any act or failure to act, acquiesce in the placing of, or allow to remain, any mortgage, pledge, Lien (statutory, constitutional or contractual), security interest, encumbrance or charge on, or conditional sale or other title retention agreement, regardless of whether the same are expressly subordinate to the Liens and security interests created by this Mortgage, with respect to the Mortgaged Property, or any portion thereof or interest therein, other than the Permitted Liens and except as otherwise expressly provided in the Indenture or elsewhere in this Mortgage.

Section 6.05 Transfer Restrictions. Mortgagor shall not sell, lease, assign, transfer or otherwise dispose of or abandon all or any part of the Mortgaged Property (or any interest

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therein), except as expressly permitted by and in accordance with the terms of the Indenture or elsewhere in this Mortgage.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.01 Event of Default. The occurrence of an "Event of Default" under the Indenture shall be an "Event of Default" under this Mortgage.

Section 7.02 Acceleration. Upon the occurrence and during the continuance of any Event of Default, in addition to any other rights, powers or remedies conferred herein or by operation of law, Mortgagee, in its sole judgment and discretion, may declare the then unpaid principal balance of the Note Obligations (the "Principal Balance"), the accrued interest thereon and any other accrued but unpaid portion of the Note Obligations to be, and they shall thereupon forthwith become, immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived by Mortgagor.

Section 7.03 Foreclosure and Sale. If an Event of Default shall occur and be continuing, Mortgagee shall have the right and option to take possession of the Mortgaged Property and proceed with foreclosure and to sell, to the extent and in the manner permitted by applicable law, all or any portion of the Mortgaged Property at one or more sales, as an entirety or in parcels, at such place or places, in such manner and upon such notice as may be required by law, or, in the absence of any such requirement, as Mortgagee may deem appropriate, and to make conveyance to the purchaser or purchasers. Where the Mortgaged Property is situated in more than one county, notice as above provided shall be posted and filed in all such counties (if such notices are required by law), and all such Mortgaged Property may be sold in any such county and any such notice shall designate the county where such Mortgaged Property is to be sold. Nothing contained in this Section 7.03 shall be construed so as to limit in any way Mortgagee's rights to sell the Mortgaged Property, or any portion thereof, by private sale if, and to the extent that, such private sale is permitted under the laws of the applicable jurisdiction or by public or private sale after entry of a judgment by any court of competent jurisdiction so ordering. Mortgagor hereby irrevocably appoints Mortgagee to be the attorney-in-fact of Mortgagor (coupled with an interest) and in the name and on behalf of Mortgagor to execute and deliver any deeds, transfers, conveyances, assignments, assurances and notices which Mortgagor ought to execute and deliver and do and perform any and all such acts and things which Mortgagor ought to do and perform under the covenants herein contained and generally, to use the name of Mortgagor in the exercise of all or any of the powers hereby conferred on Mortgagee. At any such sale: (a) whether made under the power herein contained or any other legal enactment, or by virtue of any judicial proceedings or any other legal right, remedy or recourse, it shall not be necessary for Mortgagee to have physically present, or to have constructive possession of, the Mortgaged Property (Mortgagor hereby covenanting and agreeing to deliver to Mortgagee any portion of the Mortgaged Property not actually or constructively possessed by Mortgagee immediately upon demand by Mortgagee) and the title to and right of possession of any such property shall pass to the purchaser thereof as completely as if the same had been actually present and delivered to purchaser at such sale, (b) each instrument of conveyance executed by Mortgagee shall contain a general warranty of title, binding upon

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Mortgagor and its successors and assigns, (c) each and every recital contained in any instrument of conveyance made by Mortgagee shall conclusively establish the truth and accuracy of the matters recited therein, including, without limitation, nonpayment and/or nonperformance of the Note Obligations, advertisement and conduct of such sale in the manner provided herein and otherwise required by law, (d) any and all prerequisites to the validity thereof shall be conclusively presumed to have been performed, (e) the receipt of Mortgagee, or of such other party or officer making the sale, shall be a sufficient discharge to the purchaser or purchasers for its purchase money and no such purchaser or purchasers, or its assigns or personal representatives, shall thereafter be obligated to see to the application of such purchase money, or be in any way answerable for any loss, misapplication or non-application thereof, (f) to the fullest extent permitted by law, Mortgagor shall be completely and irrevocably divested of all of its right, title, interest, claim and demand whatsoever, either at law or in equity, (including any statutory or common law right of redemption which is hereby waived to the extent allowed by applicable law), in and to the property sold and such sale shall be a perpetual bar both at law and in equity against Mortgagor, and against any and all other persons claiming by, through or under Mortgagor, and (g) to the extent and under such circumstances as are permitted by law, Mortgagee may be a purchaser at any such sale, and shall have the right, after paying or accounting for all costs of said sale or sales, to credit the amount of the bid upon the amount of the Note Obligations (in the order of priority set forth in Section 7.16 hereof) in lieu of cash payment. Each remedy provided in this instrument is distinct and cumulative with all other rights or remedies under this instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

Section 7.04 Mortgagee's Agents. Mortgagee may appoint or delegate any one or more persons as agent to perform any act or acts necessary or incident to any sale held by Mortgagee, including the posting of notices and the conduct of sale, but in the name and on behalf of Mortgagee.

Section 7.05 Receiver. If an Event of Default shall occur and be continuing, Mortgagee may apply for and obtain as a matter of right and without notice to Mortgagor, which notice is hereby expressly waived by Mortgagor, the appointment of a receiver to collect the Rents of the Mortgaged Property and to preserve the security hereof, either before or after any foreclosure sale, without regard to the value of the Mortgaged Property as security for the amount due Mortgagee, or the solvency of any entity or entities, person or persons primarily or secondarily liable for the payment of such amounts; the Rents of the Mortgaged Property, in any such event, having heretofore been assigned to Mortgagee pursuant to Section 3.01 above as additional security for the payment of the Note Obligations secured hereby.

Section 7.06 Judicial Foreclosure. If an Event of Default shall occur and be continuing, Mortgagee shall have the right and power to proceed by a suit or suits in equity or at law, whether for the specific performance of any covenant or agreement herein contained or in aid of the execution of any power herein granted, or for any foreclosure hereunder or for the sale of the Mortgaged Property under the judgment or decree of any court or courts of competent jurisdiction, or for the appointment of a receiver pending any foreclosure hereunder or the sale of the Mortgaged Property under the order of a court or courts of competent jurisdiction or under executory or other legal process, or for the enforcement of any other appropriate legal or equitable remedy. Any money advanced by Mortgagee in connection with any such receivership

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shall be a demand obligation (which obligation Mortgagor hereby expressly promises to pay) owing by Mortgagor to Mortgagee and shall bear interest from the date of making such advance by Mortgagee until paid at the rate set forth in the Indenture and the Notes.

Section 7.07 Foreclosure for Installments. To the extent allowed by applicable law, if an Event of Default shall occur and be continuing, Mortgagee shall also have the option to proceed with foreclosure in satisfaction of any installments of the Note Obligations which have not been paid when due, either through the courts or otherwise by non-judicial power of sale in satisfaction of the matured but unpaid portion of the Note Obligations as if under a full foreclosure, conducting the sale as herein provided and without declaring the entire principal balance and accrued interest due. Such sale may be made subject to the unmatured portion of the Note Obligations, and any such sale shall not in any manner affect the unmatured portion of the Note Obligations, but as to such unmatured portion of the Note Obligations this Mortgage shall remain in full force and effect just as though no sale had been made hereunder. It is further agreed that several sales may be made hereunder without exhausting the right of sale for any unmatured part of the Note Obligations, it being the intent and purpose hereof to provide for a foreclosure and sale of the security for any matured portion of the Note Obligations without exhausting the power to foreclose and sell the Mortgaged Property for any subsequently maturing portion of the Note Obligations.

Section 7.08 Separate Sales. To the extent allowed by applicable law, the Mortgaged Property may be sold in one or more parcels and in such manner and order as Mortgagee, in its sole discretion, may elect, it being expressly understood and agreed that the right of sale arising out of any Event of Default shall not be exhausted by any one or more sales.

Section 7.09 Possession of Mortgaged Property. Mortgagor agrees to the full extent that it lawfully may, that, in case one or more of the Events of Default shall have occurred and be continuing, then, and in every such case, Mortgagee shall have the right and power to enter into and upon and take possession of all or any part of the Mortgaged Property in the possession of Mortgagor, its successors or assigns, or its or their agents or servants, and may exclude Mortgagor, its successors or assigns, and all persons claiming under Mortgagor, and its or their agents or servants wholly or partly therefrom; and, holding the same, Mortgagee may use, administer, manage, operate and control the Mortgaged Property and conduct the business thereof to the same extent as Mortgagor, its successors or assigns, might at the time do and may exercise all rights and powers of Mortgagor, in the name, place and stead of Mortgagor, or otherwise as Mortgagee shall deem best. All costs, expenses and liabilities of every character incurred by Mortgagee in administering, managing, operating and controlling the Mortgaged Property shall constitute a demand obligation (which obligation Mortgagor hereby expressly promises to pay) owing by Mortgagor to Mortgagee and shall bear interest from date of expenditure until paid at the rate set forth in the Indenture and the Notes, all of which shall constitute a portion of the Note Obligations and shall be secured by this Mortgage and all of the other Note Documents. Mortgagor hereby irrevocably constitutes and appoints Mortgagee as Mortgagor's attorney-in-fact (coupled with an interest) to perform such acts and execute such documents as Mortgagee, in its sole discretion, may consider to be appropriate in connection with taking these measures, including endorsement of Mortgagor's name on any instruments. Regardless of any provision of this Mortgage, the Indenture or any other Loan Document, Mortgagee shall not be considered to have accepted any property other than cash or immediately

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available funds in satisfaction of any obligation of Mortgagor to Mortgagee, unless Mortgagee shall have given express written notice of Mortgagee's election to the contrary.

Section 7.10 Occupancy After Foreclosure. In the event there is a foreclosure sale hereunder and at the time of such sale Mortgagor or Mortgagor's representatives, successors or assigns or any other person claiming any interest in the Mortgaged Property by, through or under Mortgagor, are occupying or using the Mortgaged Property or any part thereof, each and all shall immediately become the tenant of the purchaser at such sale, which tenancy shall be a tenancy from day to day, terminable at the will of either the landlord or tenant, at a reasonable rental per day based upon the value of the property occupied, such rental to be due daily to the purchaser. To the extent permitted by applicable law, the purchaser at such sale shall, notwithstanding any language herein to the contrary, have the sole option to demand immediate possession following the sale or to permit the occupants to remain as tenants at will. In the event that the tenant fails to surrender possession of said property upon demand, the purchaser shall be entitled to institute and maintain a summary action for possession of the Mortgaged Property (such as an action for forcible entry and detainer) in any court having jurisdiction.

Section 7.11 Remedies Cumulative, Concurrent and Nonexclusive. Every right, power and remedy herein given to Mortgagee shall be cumulative and in addition to every other right, power and remedy herein specifically given or now or hereafter existing in equity, at law or by statute (including specifically those granted by the Applicable UCC). Each and every right, power and remedy whether specifically herein given or otherwise existing may be exercised from time to time and so often and in such order as may be deemed expedient by Mortgagee, and the exercise, or the beginning of the exercise, of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter any other right, power or remedy. Mortgagee shall be entitled to collect all costs and expenses incurred in pursuing such remedies. No delay or omission by Mortgagee in the exercise of any right, power or remedy shall impair any such right, power or remedy or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing.

Section 7.12 No Release of Note Obligations. Neither Mortgagor, any guarantor nor any other Person now or hereafter obligated for the payment or performance of all or any part of the Note Obligations shall be relieved of such obligation by reason of (a) the failure of Mortgagee to comply with any request of Mortgagor, any guarantor or any other Person so obligated to foreclose the Lien of this Mortgage or to enforce any provision hereunder or under the Indenture; (b) the release, regardless of consideration, of the Mortgaged Property or any portion thereof or interest therein or the addition of any other property to the Mortgaged Property; (c) any agreement or stipulation between any subsequent owner of the Mortgaged Property and Mortgagee extending, renewing, rearranging or in any other way modifying the terms of this Mortgage without first having obtained the consent of, given notice to or paid any consideration to Mortgagor, any guarantor or such other Person, and in such event Mortgagor, guarantor and all such other Persons shall continue to be liable to make payment according to the terms of any such extension or modification agreement unless expressly released and discharged in writing by Mortgagee; or (d) any other act or occurrence save and except the complete payment and performance of all of the Note Obligations.

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Section 7.13 Release of and Resort to Collateral. Mortgagee may release, regardless of consideration, any part of the Mortgaged Property without, as to the remainder, in any way impairing, affecting, subordinating or releasing the Lien or security interest created in or evidenced by this Mortgage or its stature as a first and prior Lien and security interest in and to the Mortgaged Property, and without in any way releasing or diminishing the liability of any Person liable for the payment or performance of the Note Obligations. For payment of the Note Obligations, Mortgagee may resort to any other security therefor held by Mortgagee in such order and manner as Mortgagee may elect.

Section 7.14 Waiver of Redemption, Notice and Marshalling of Assets, Etc. To the fullest extent permitted by applicable law, Mortgagor hereby irrevocably and unconditionally waives and releases (a) all benefits that might accrue to Mortgagor by virtue of any present or future moratorium law or other law exempting the Mortgaged Property from attachment, levy or sale on execution or providing for any appraisalment, valuation, stay of execution, exemption from civil process, redemption or extension of time for payment; (b) except for such notices as expressly provided for herein or in the Indenture, all notices of any Event of Default or of Mortgagee's intention to accelerate maturity of the Note Obligations or of Mortgagee's election to exercise or its actual exercise of any right, remedy or recourse provided for hereunder or under the Indenture; (c) any right to a marshalling of assets or a sale in inverse order of alienation; and (d) any and all conflicts with any provision of any of the Note Documents. If any law referred to in this Mortgage and now in force, of which Mortgagor or its successor or successors might take advantage despite the provisions hereof, shall hereafter be repealed or cease to be in force, such law shall thereafter be deemed not to constitute any part of the contract herein contained or to preclude the operation or application of the provisions hereof.

Section 7.15 Discontinuance of Proceedings. In case Mortgagee shall have proceeded to invoke any right, remedy or recourse permitted hereunder or under the Indenture and shall thereafter elect to discontinue or abandon same for any reason, Mortgagee shall have the unqualified right so to do and, in such an event, Mortgagor and Mortgagee shall be restored to their former positions with respect to the Note Obligations, this Mortgage, the Indenture, the Mortgaged Property and otherwise, and the rights, remedies, recourses and powers of Mortgagee shall continue as if same had never been invoked.

Section 7.16 Application of Proceeds. After an occurrence and during the continuance of an Event of Default, the proceeds of any sale of and any other amounts generated by the holding, leasing, operating or other use of the Mortgaged Property shall be applied by Mortgagee (or the receiver, if one is appointed) to the extent that funds are so available therefrom in the manner set forth in Section 6.10 of the Indenture, except to the extent otherwise required by applicable law. Mortgagor shall be liable for any deficiency remaining.

Section 7.17 Uniform Commercial Code Remedies. Mortgagee shall have all of the rights, remedies and recourses with respect to the Personalty and the Fixtures afforded to it by the Applicable UCC, including, without limitation, the right to take possession of the Personalty and the Fixtures or any part thereof, and to take such other measures as Mortgagee may deem necessary for the care, protection and preservation of the Personalty and the Fixtures, in addition to, and not in limitation of, the other rights, remedies and recourses afforded by this Mortgage and the other Note Documents.

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Section 7.18 Indemnity. In connection with any action taken by Mortgagee and/or any Holder pursuant to this Mortgage, Mortgagee and/or such Holder and their respective Indemnified Parties shall not be liable for any Loss sustained by Mortgagor resulting from (a) an assertion that Mortgagee or any Holder or Indemnified Party has received funds from the operations of the Mortgaged Property claimed by third persons or (b) any act or omission of Mortgagee or any Holder or Indemnified Party in administering, managing, operating or controlling the Mortgaged Property, including in either case such Loss as may result from the ordinary negligence of Mortgagee, a Holder or an Indemnified Party or which may result from strict liability, whether under applicable law or otherwise, unless such Loss is caused by the gross negligence or willful misconduct of Mortgagee or such Holder or Indemnified Party, nor shall Mortgagee and/or any Holder or Indemnified Party be obligated to perform or discharge any obligation, duty or liability of Mortgagor. Mortgagor shall and does hereby agree to indemnify Mortgagee and each Holder and their respective Indemnified Parties for, and to hold Mortgagee and each such Holder and Indemnified Party harmless from, any and all Losses which may or might be incurred by Mortgagee or any such Holder or Indemnified Party by reason of this Mortgage or the exercise of rights or remedies hereunder. The foregoing to the contrary notwithstanding, Mortgagor shall have no obligation to Mortgagee, any Holder or any Indemnified Party under this Section 7.18 with respect to any Losses that a court of competent jurisdiction finally determines to have resulted from the gross negligence or willful misconduct of Mortgagee, such Holder or such Indemnified Party, as the case may be. **WITHOUT LIMITATION, THE FOREGOING INDEMNITY SHALL APPLY TO MORTGAGEE, EACH HOLDER AND EACH INDEMNIFIED PARTY WITH RESPECT TO LOSSES WHICH IN WHOLE OR IN PART ARE CAUSED BY OR ARISE OUT OF ANY NEGLIGENT ACT OR OMISSION OF MORTGAGEE, SUCH HOLDER, SUCH INDEMNIFIED PARTY OR OF ANY OTHER PERSON.** Should Mortgagee and/or any Holder or Indemnified Party make any expenditure on account of any such Losses, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be a demand obligation (which obligation Mortgagor hereby expressly promises to pay) owing by Mortgagor to Mortgagee and shall bear interest from the date expended until paid at the rate set forth in the Indenture and the Notes, shall be a part of the Note Obligations and shall be secured by this Mortgage and the other Note Documents. Mortgagor hereby assents to, ratifies and confirms any and all actions of Mortgagee with respect to the Mortgaged Property taken under this Mortgage. The liabilities of Mortgagor as set forth in this Section 7.18 shall survive the termination of this Mortgage and the repayment of the Note Obligations.

ARTICLE VIII

INTENTIONALLY OMITTED

ARTICLE IX

MISCELLANEOUS

Section 9.01 Instrument Construed as Mortgage, Etc. This Mortgage may be construed as a mortgage, deed of trust, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order to

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fully effectuate the lien and security interests created hereby and the purposes and agreements herein set forth.

Section 9.02 Performance at Mortgagor's Expense. The cost and expense of performing or complying with any and all of the Note Obligations shall be borne solely by Mortgagor, and no portion of such cost and expense shall be, in any way or to any extent, credited against any installment on or portion of the Note Obligations.

Section 9.03 Survival of Note Obligations. Each and all of the Note Obligations shall survive the execution and delivery of this Mortgage and shall continue in full force and effect until all of the Note Obligations shall have been fully satisfied.

Section 9.04 Further Assurances. Mortgagor, promptly after the request of Mortgagee, shall execute, acknowledge, deliver and record and/or file such further instruments, including financing statements, and do such further acts as may be necessary, desirable or proper to carry out more effectively the purpose of this Mortgage and to subject to the Liens and security interests hereof any property intended by the terms hereof to be covered hereby, including any renewals, additions, substitutions, replacements, betterments or appurtenances to the then Mortgaged Property.

Section 9.05 Notices. All notices or other communications required or permitted to be given pursuant to this Mortgage shall be in writing and shall be considered as properly given if given in the manner and to the addresses prescribed by Section 12.2 of the Indenture; provided that (a) service of notice as required by the laws of any State or Commonwealth in which portions of the Mortgaged Property may be situated shall for all purposes be deemed appropriate and sufficient with the giving of such notice, and (b) any party shall have the right to change its address for notice hereunder to any other location within the continental United States by the giving of ten (10) days' notice to the other party in the manner set forth above.

Section 9.06 No Waiver. Any failure by Mortgagee to insist, or any election by Mortgagee not to insist, upon strict performance by Mortgagor of any of the terms, provisions or conditions of this Mortgage shall not be deemed to be a waiver of the same or of any other terms, provision or condition hereof and Mortgagee shall have the right at any time or times thereafter to insist upon strict performance by Mortgagor of any and all of such terms, provisions and conditions. Mortgagee may, in Mortgagee's sole and absolute discretion, accept or reject any proposed cure of an Event of Default. In no event shall any provision of this Mortgage or any other Loan Document which provides that Mortgagee shall have certain rights and/or remedies only during the continuance of an Event of Default be construed so as to require Mortgagee to accept a cure of any such Event of Default. Unless and until Mortgagee expressly accepts any proposed cure of an Event of Default, such Event of Default shall be deemed to be continuing for purposes of this Mortgage and the other Note Documents.

Section 9.07 Mortgagee's Right to Perform. Mortgagor agrees that if Mortgagor fails to perform any act or to take any action which Mortgagor is required to perform or take hereunder or under the Indenture or to pay any money which Mortgagor is required to pay hereunder or under the Indenture, after seven (7) days' advance written notice to Mortgagee, Mortgagee in Mortgagor's name or its own name may, but shall not be obligated to, perform or

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cause to be performed such act or take such action or pay such money, and any expenses so incurred by Mortgagee and any money so paid by Mortgagee shall be a demand obligation owing by Mortgagor to Mortgagee, and Mortgagee, upon making such payment, shall be subrogated to all of the rights of the Person receiving such payment. Each amount due and owing by Mortgagor to Mortgagee pursuant to this Mortgage shall bear interest from the date of such expenditure or payment or other occurrence which gives rise to such amount being owed to Mortgagee until paid at the rate set forth in the Indenture and the Notes, and all such amounts together with such interest thereon shall be a part of the Note Obligations. If Mortgagee shall elect to pay any Imposition or other sums due with reference to the Mortgaged Property, Mortgagee may do so in reliance on any bill, statement or assessment procured from the appropriate Governmental Authority or other issuer thereof.

Section 9.08 Successors and Assigns. All of the terms hereof shall apply to, be binding upon and inure to the benefit of the parties hereto, their successors, assigns, heirs and legal representatives, and all other persons claiming by, through or under them.

Section 9.09 Severability. This Mortgage is intended to be performed in accordance with, and only to the extent permitted by, all applicable laws and regulations of applicable Governmental Authorities and the provisions hereof are intended to be limited to the extent necessary that they will not render this Mortgage invalid, unenforceable or not entitled to be recorded, registered or filed under the provisions of any applicable law. If any provision hereof or the application thereof to any person or circumstance shall, for any reason and to any extent, be invalid or unenforceable, neither the remainder of this Mortgage nor the application of such provision to other persons or circumstances shall be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

Section 9.10 Entire Agreement and Modification. This Mortgage may not be amended, revised, waived, discharged, released or terminated orally, but only by a written instrument or instruments executed by the party against which enforcement of the amendment, revision, waiver, discharge, release or termination is asserted. Any alleged amendment, revision, waiver, discharge, release or termination which is not so documented shall not be effective as to any party.

Section 9.11 Applicable Law. **THIS MORTGAGE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK AND FEDERAL LAW, INCLUDING THE BANKRUPTCY CODE, WITHOUT GIVING EFFECT TO ITS LAWS RELATING TO CONFLICTS OF LAWS, EXCEPT WITH RESPECT TO THE ATTACHMENT, CREATION, VALIDITY, PRIORITY, PERFECTION OR MANNER OR PROCEDURE FOR ENFORCEMENT OF THE LIENS OR SECURITY INTERESTS CREATED BY THIS MORTGAGE, WHICH SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF ILLINOIS; PROVIDED, HOWEVER, THAT ANY REMEDIES PROVIDED IN THIS MORTGAGE WHICH ARE VALID UNDER THE LAWS OF THE JURISDICTION WHERE PROCEEDINGS FOR THE ENFORCEMENT OF THIS MORTGAGE ARE TAKEN SHALL NOT BE AFFECTED BY ANY INVALIDITY UNDER THE LAWS OF THE STATE OF NEW YORK. IT IS THE INTENT OF THE PARTIES HERETO THAT THE PROVISIONS OF SECTION 5-1401**

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OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK APPLY TO THIS MORTGAGE.

Section 9.12 Satisfaction of Prior Encumbrance. To the extent that proceeds advanced pursuant to the Indenture are used to pay indebtedness secured by any outstanding Lien, security interest, charge or prior encumbrance against the Mortgaged Property, such proceeds have been advanced by Mortgagee at Mortgagor's request, and Mortgagee shall be subrogated to any and all rights, security interests and Liens owned by any owner or holder of such outstanding Liens, security interests, charges or encumbrances, irrespective of whether said Liens, security interests, charges or encumbrances are released, and it is expressly understood that, in consideration of the payment of such other indebtedness by Mortgagee, Mortgagor hereby waives and releases all demands and causes of action for offsets and payments to, upon and in connection with the said indebtedness.

Section 9.13 No Partnership. Nothing contained in this Mortgage is intended to, or shall be construed to, create to any extent and in any manner whatsoever any partnership, joint venture, or association between Mortgagor and Mortgagee, or in any way make Mortgagee a co-principal with Mortgagor with reference to the Mortgaged Property, and any inferences to the contrary are hereby expressly negated.

Section 9.14 Headings. The Article, Section and Subsection headings hereof are inserted for convenience of reference only and shall in no way alter, modify or define, or be used in construing, the text of such Articles, Sections or Subsections.

Section 9.15 Release of Mortgage. If all of the Note Obligations secured hereby shall be paid and the Indenture terminated, Mortgagee shall forthwith cause satisfaction and discharge of this Mortgage to be entered upon the record at the expense of Mortgagor and shall execute and deliver or cause to be executed and delivered such instruments of satisfaction and reassignment as may be appropriate, such instruments to be duly acknowledged and in form for recording. Otherwise, this Mortgage shall remain and continue in full force and effect.

Section 9.16 Limitation of Obligations with Respect to Mortgaged Property.

(a) Neither Mortgagee nor any Holder shall have any duty or liability to protect or preserve any Mortgaged Property or to preserve rights pertaining thereto other than the duty to use reasonable care in the custody and preservation of any Mortgaged Property in its actual possession. Mortgagee shall be deemed to have exercised reasonable care in the custody and preservation of any Mortgaged Property in its possession if such Mortgaged Property is accorded treatment substantially equal to that which Mortgagee accords its own like property. Mortgagee shall be relieved of all responsibility for any Mortgaged Property in its possession upon surrendering it, or tendering surrender of it, to Mortgagor or to such other Person entitled thereto by applicable law.

(b) Nothing contained in this Mortgage shall be construed as requiring or obligating Mortgagee or any Holder, and neither Mortgagee nor any Holder shall be required or obligated, to (i) make any demand, or make any inquiry as to the nature or sufficiency of any payment received by it, or present or file any claim or notice or take any action, with respect to

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any Mortgaged Property or the monies due or to become due thereunder or in connection therewith, (ii) ascertain or take action with respect to calls, conversions, exchanges, maturities, tenders, offers or other matters relating to any Mortgaged Property, whether or not Mortgagee or any Holder has or is deemed to have knowledge or notice thereof, (iii) take any necessary steps to preserve rights against any prior parties with respect to any Mortgaged Property, or (iv) notify Mortgagor or any other Person of any decline in the value of any Mortgaged Property.

Section 9.17 Inconsistency with Indenture. In the event of any express conflict between the terms of this Mortgage and the terms of the Indenture with respect to the Mortgaged Property, the terms of the Indenture shall govern and control.

Section 9.18 Limitation on Interest Payable. It is the intention of the parties to conform strictly to the usury laws, whether state or federal, that are applicable to the transaction of which this Mortgage is a part. All agreements between Mortgagor and Mortgagee (and the Holders) whether now existing or hereafter arising and whether oral or written, are hereby expressly limited so that in no contingency or event whatsoever shall the amount paid or agreed to be paid by Mortgagor for the use, forbearance or detention of the money to be loaned under the Indenture or any other Loan Document, or for the payment or performance of any covenant or obligation contained herein or in the Indenture or any other Loan Document, exceed the maximum amount permissible under applicable federal or state usury laws. If under any circumstances whatsoever fulfillment of any such provision, at the time performance of such provision shall be due, shall involve exceeding the limit of validity prescribed by applicable law, then the obligation to be fulfilled shall be reduced to the limit of such validity. If under any circumstances Mortgagor shall have paid an amount deemed interest by applicable law, which would exceed the highest lawful rate, such amount that would be excessive interest under applicable usury laws shall be applied to the reduction of the principal amount owing in respect of the Note Obligations and not to the payment of interest, or if such excessive interest exceeds the unpaid balance of principal and any other amounts due hereunder, the excess shall be refunded to Mortgagor. All sums paid or agreed to be paid for the use, forbearance or detention of the principal under any extension of credit by the Holders shall, to the extent permitted by applicable law, and to the extent necessary to preclude exceeding the limit of validity prescribed by law, be amortized, prorated, allocated and spread from the date of this Mortgage until payment in full of the Note Obligations so that the actual rate of interest on account of such principal amounts is uniform throughout the term hereof.

Section 9.19 Covenants To Run With the Land. All of the grants, representations, warranties, undertakings, covenants, terms, provisions and conditions in this Mortgage shall run with the Land and shall apply to and bind the successors and assigns of Mortgagor. If there shall be more than one mortgagor, the covenants, representations and warranties made herein shall be joint and several.

Section 9.20 Last Dollar. The lien of this Mortgage shall not be or be deemed to be reduced by any prepayment or repayment of the principal amount of the indebtedness secured hereby so long as any portion of said indebtedness remains unpaid, and such portion of said indebtedness last remaining unpaid shall be and be deemed to be secured hereby.

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Section 9.21 Exculpation Provisions. EACH OF THE PARTIES HERETO SPECIFICALLY AGREES THAT IT HAS A DUTY TO READ THIS MORTGAGE; AND AGREES THAT IT IS CHARGED WITH NOTICE AND KNOWLEDGE OF THE TERMS OF THIS MORTGAGE; THAT IT HAS IN FACT READ THIS MORTGAGE AND IS FULLY INFORMED AND HAS FULL NOTICE AND KNOWLEDGE OF THE TERMS, CONDITIONS AND EFFECTS OF THIS MORTGAGE; THAT IT HAS BEEN REPRESENTED BY INDEPENDENT LEGAL COUNSEL OF ITS CHOICE THROUGHOUT THE NEGOTIATIONS PRECEDING ITS EXECUTION OF THIS MORTGAGE; AND HAS RECEIVED THE ADVICE OF ITS ATTORNEY IN ENTERING INTO THIS MORTGAGE; AND THAT IT RECOGNIZES THAT CERTAIN OF THE TERMS OF THIS MORTGAGE RESULT IN ONE PARTY ASSUMING THE LIABILITY INHERENT IN SOME ASPECTS OF THE TRANSACTION AND RELIEVING THE OTHER PARTY OF ITS RESPONSIBILITY FOR SUCH LIABILITY. EACH PARTY HERETO AGREES AND COVENANTS THAT IT WILL NOT CONTEST THE VALIDITY OR ENFORCEABILITY OF ANY EXCULPATORY PROVISION OF THIS MORTGAGE ON THE BASIS THAT THE PARTY HAD NO NOTICE OR KNOWLEDGE OF SUCH PROVISION OR THAT THE PROVISION IS NOT "CONSPICUOUS."

Section 9.22 No Merger of Estates. So long as any part of the Note Obligations secured hereby remain unpaid, unperformed or undischarged, the fee, easement and leasehold estates to the Mortgaged Property shall not merge but rather shall remain separate and distinct, notwithstanding the union of such estates either in Mortgagor, Mortgagee, any lessee, or any third party purchaser or otherwise.

Section 9.23 Subordination to Senior Mortgage. Reference is hereby made to the Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing of even date herewith, made by Mortgagor, as mortgagor, and Foothill Capital Corporation, as administrative agent, as mortgagee, with respect to a \$50,000,000.00 senior credit facility provided to Mortgagor (the "Senior Mortgage"). Notwithstanding the order, time or manner of filing or recordation of this Mortgage, the Senior Mortgage or any other document relating to the Senior Credit Facility or this Mortgage, the Senior Mortgage shall at all times have priority over this Mortgage and this Mortgage shall at all times be subject and subordinate to the Senior Mortgage.

ARTICLE X

STATE SPECIFIC PROVISIONS

Section 10.01 Construction of Mortgage. In the event of any conflict between the terms and provisions of this Article X and the balance of this Mortgage, the terms and provisions of this Article X shall govern and control.

Section 10.02 Illinois Law.

(a) With respect to the assignment of the Rents by Mortgagor to Mortgagee contained in this Mortgage, Mortgagor hereby consents to the provisions of 765 ILCS 5/31.5

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which are applicable to this Mortgage. In Mortgagee's sole discretion, Mortgagee may choose to collect Rents either with or without taking possession of the Mortgaged Property.

(b) The powers of a receiver listed in 735 ILCS 5/15-1704 shall be added to all the powers of a receiver listed in this Mortgage or the Indenture, subject to any express limitations on such powers in this Mortgage or the Indenture.

(c) If any provision of this Mortgage is inconsistent with any applicable provision of the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101, *et seq.* (the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act.

(d) Without in any way limiting any of Mortgagee's rights, remedies, powers and authorities under this Mortgage, and in addition to all of such rights, remedies, powers, and authorities, Mortgagee shall also have all rights, remedies, powers and authorities permitted to the holder of a mortgage under the Act, as the same may be amended from time to time. If any provision of this Mortgage shall grant to Mortgagee any rights, remedies, powers or authorities upon default of Mortgagor which are more limited than what would be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall have what would be vested under the Act.

(e) All expenses, including, without limitation, reasonable attorneys' fees and expenses, incurred by Mortgagee, to the extent reimbursable under 735 ILCS 5/15-1510, 735 ILCS 5/15-1512, or any other provision of the Act, whether incurred before or after any judgment of foreclosure, shall be added to the indebtedness secured by this Mortgage and included in the judgment of foreclosure.

(f) Any property management agreement for or relating to all or any part of the Mortgaged Property entered into hereafter by Mortgagor or any agent of Mortgagor with a property manager shall contain a subordination provision whereby the property manager forever and unconditionally subordinates to the lien of this Mortgage and the other Note Documents any and all mechanics' lien rights and claims that it or anyone claiming through or under it may have at any time pursuant to any statute or law (including, without limitation, 770 ILCS 60/1). Such property management agreement or a short form thereof including such subordination shall, at Mortgagee's request, be recorded with the Office of the Recorder of Deeds for the counties in which the Land is located. Mortgagor's failure to cause any of the foregoing to occur, either within thirty (30) days after Mortgagor enters into such property management agreement or thirty (30) days after notice from Mortgagee of such failure, shall constitute an Event of Default under Section 7.01 of this Mortgage.

Section 10.03 Illinois Statutory Waivers. MORTGAGOR, ON BEHALF OF ITSELF AND ALL PERSONS NOW OR HEREAFTER INTERESTED IN THE MORTGAGED PROPERTY, VOLUNTARILY AND KNOWINGLY HEREBY ACKNOWLEDGES THAT THE TRANSACTION OF WHICH THIS MORTGAGE IS A PART IS A TRANSACTION WHICH DOES NOT INCLUDE EITHER AGRICULTURAL REAL ESTATE (AS DEFINED IN THE ACT), OR RESIDENTIAL REAL ESTATE (AS

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DEFINED IN THE ACT). MORTGAGOR, ON ITS OWN BEHALF AND ON BEHALF OF EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN OR TITLE TO THE MORTGAGED PROPERTY SUBSEQUENT TO THE DATE OF THIS MORTGAGE, HEREBY IRREVOCABLY WAIVES PURSUANT TO 735 ILCS 5/15-1601 OF THE ACT ANY AND ALL RIGHTS OF REDEMPTION FROM SALE OR FROM OR UNDER ANY ORDER, JUDGMENT OR DECREE OF FORECLOSURE OF THIS MORTGAGE (INCLUDING, WITHOUT LIMITATION, ALL RIGHTS OF REDEMPTION PROVIDED FOR IN 735 ILCS 5/15-1603) OR UNDER ANY POWER CONTAINED HEREIN OR UNDER ANY SALE PURSUANT TO ANY STATUTE, ORDER, DECREE OR JUDGMENT OF ANY COURT.

[SIGNATURES BEGIN ON THE NEXT PAGE]

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IN WITNESS WHEREOF, Mortgagor has executed this Mortgage, Security Agreement, Assignment of Leases and Rents and Fixture Filing as of the date first above written **0021222691**

MORTGAGOR HEREBY DECLARES AND ACKNOWLEDGES THAT MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS MORTGAGE.

MORTGAGOR:

ARCHIBALD CANDY CORPORATION,
a Delaware corporation, as successor by merger to
Archibald Candy Corporation, an Illinois
corporation

By:


Name TED A. SHEPHERD
Title: PRESIDENT, CEO

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STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Ted A. Shepherd, personally known to me to be the CEO and President of ARCHIBALD CANDY CORPORATION, a Delaware corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that as such officer, he/she signed and delivered said instrument as such officer of said corporation, pursuant to authority, given by the CEO and President of said corporation, as his/her free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

Given under my hand and official seal, this 1st day of November, 2002.



Nicole K. Scaravalle
Notary Public 0021222691

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EXHIBIT A

0021222691

Headquarters

Address: 1137 West Jackson Blvd., Chicago, Illinois

PARCEL 1:

LOTS 17 TO 26 INCLUSIVE IN WRIGHTS SUBDIVISION OF THE WEST 1/2 OF BLOCK 24 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;

PARCEL 2:

THAT PART OF VACATED GARDEN STREET LYING SOUTH OF AND ADJOINING LOTS 17 TO 21 INCLUSIVE AND NORTH OF AND ADJOINING LOTS 22 TO 26 INCLUSIVE IN WRIGHTS SUBDIVISION OF THE WEST 1/2 OF BLOCK 24 IN CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 AND THE WEST 1/2 OF THE NORTH EAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN;

PARCEL 3:

LOTS 7 TO 26 INCLUSIVE IN THE SUBDIVISION OF THE EAST 1/2 OF BLOCK 24 IN CANAL TRUSTEES SUBDIVISION OF THE WEST 1/2 AND THE WEST 1/2 OF THE NORTH EAST 1/4 OF SECTION 17, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN;

PARCEL 4:

THAT PART OF VACATED GARDEN STREET LYING SOUTH OF AND ADJOINING LOTS 17 TO 21 INCLUSIVE AND NORTH OF AND ADJOINING LOTS 22 TO 26 INCLUSIVE IN SUBDIVISION OF THE EAST 1/2 OF BLOCK 24 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;

PARCEL 5:

ALL OF THE HERETOFORE VACATED NORTH-SOUTH 20 FOOT ALLEY LYING WEST OF THE WEST LINE OF LOTS 1 TO 16, BOTH INCLUSIVE, LYING EAST OF THE EAST LINE OF LOTS 17 AND 22, LYING EAST OF THE EAST LINE OF THE 40 FOOT PUBLIC ALLEY VACATED BY DOCUMENT NUMBER 20386525, BEING A LINE DRAWN FROM THE SOUTHEAST CORNER OF LOT 17 TO THE NORTHEAST CORNER OF LOT 22, LYING SOUTH OF A LINE DRAWN FROM THE NORTHWEST CORNER OF LOT 1 TO THE NORTHEAST CORNER OF LOT 17, AND LYING NORTH OF A LINE DRAWN FROM THE SOUTHWEST CORNER OF LOT 16 TO THE SOUTHEAST CORNER OF LOT 22 (EXCEPT FROM THE ABOVE TRACT, THE EAST 1/2 OF THE NORTH-SOUTH 20 FOOT VACATED ALLEY WEST OF AND ADJOINING LOTS 1 THROUGH 6, INCLUSIVE, IN THE SUBDIVISION OF THE EAST 1/2 OF BLOCK 24 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) ALL IN SUBDIVISION OF THE EAST 1/2 OF BLOCK 24 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, IN COOK COUNTY, ILLINOIS.

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Property Address: 1137 West Jackson Blvd., Chicago, Illinois

PIN: 17-17-223-010
17-17-223-011
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17-17-223-015
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17-17-223-017
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17-17-223-025
17-17-223-026

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