

**PULLMAN BANK AND TRUST
MORTGAGE, ASSIGNMENT OF LEASES
AND RENTS, SECURITY AGREEMENT AND
FINANCING STATEMENT**



THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT (*this "Mortgage"*) is made as of December 23, 2002, by **717 HB MINNEAPOLIS, INC.**, a Minnesota corporation, as Mortgagor ("*Borrower*") having its principal office at 11330 Olive Boulevard, St. Louis, Missouri 63141, in favor of **PULLMAN BANK AND TRUST**, as Mortgagee, having an office at 1000 East 111th Street, Chicago, Illinois 60628 ("*Bank*").

RECITALS:

(A) Loan. Borrower is the owner of the land described on Exhibit A-1 and A 2 attached hereto, together with all improvements thereon. Bank has agreed to extend a loan to Borrower (*with all renewals, amendments and extensions, the "Loan"*) in the principal amount of Twenty Two Million and No/100 Dollars (\$22,000,000.00) pursuant to the terms and conditions set forth herein.

(B) Note. Borrower has executed and delivered to Bank a promissory note in the principal amount of Twenty Two Million and No/100 Dollars (\$22,000,000.00) (*with all renewals, amendments and replacements, the "Note"*), dated of even date herewith, and bearing interest at the rates set forth therein (*the "Interest Rates"*). Upon the occurrence of an Event of Default and under certain other circumstances, interest under the terms of the Note may be charged at a default rate of interest, as set forth in the Note. The Note is incorporated herein by reference, as if fully set forth herein. The Note is payable to the order of Bank, is subject to acceleration as provided in the Note, this Mortgage, or the other Loan Documents, defined below, and is further subject to extension and renewal by Bank in Banks' sole discretion. All principal and interest on the Note is payable in lawful money of the United States of America at the office of the Bank in Chicago, Illinois, or at such place as the holder thereof may from time to time appoint in writing.

8034448, 6025 Ad

Handwritten signature

Prepared by and after recording return to:
Jill Joyce Nace
Lord Bissell & Brook
115 South LaSalle Street
Chicago, IL 60603

Pin #: 04-19-302-016-0000
17-10-219-017-0000
17-10-219-018-0000
17-10-219-019-0000
17-10-219-020-0000
17-10-219-221-0000

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(C) Loan Documents. To evidence and secure the obligations and liabilities of Borrower to Bank in connection with the Loan, Borrower has executed and delivered to Bank the Note and this Mortgage. Borrower has also executed various other security agreements, assignments, certificates and indemnities relating to the obligations evidenced by the Note. The Note, this Mortgage, together with all such agreements, loan agreements, security agreements, assignments, certificates, indemnifications, documents, notes, guarantees, pledges, consents, contracts, notices, financing statements, hypothecation agreements, collateral assignments, mortgages, chattel mortgages, and instruments given to evidence or secure the indebtedness evidenced by the Note and all other written matter and all amendments, modifications, supplements, extensions and restatements thereof and thereto, and all agreements, notes, documents or instruments delivered in substitution therefore or in lieu thereof, whether heretofore, now or hereafter executed by or on behalf of Borrower, any party who or which has guaranteed all or any portion of the indebtedness evidenced by the Note (collectively, a "Guarantor"), any one or more of them, or any other person or entity, delivered to Bank or any participant with respect to the Loan, are collectively referred to herein as the "Loan Documents".

(D) The Secured Obligations. As used in this Mortgage, the term "Secured Obligations" means and includes all of the following: (i) the principal of and interest on the Note or any renewal, replacement, extension, or amendment thereof; (ii) all indebtedness of any kind arising under, and all amounts of any kind which at any time become due or owing to Bank under or with respect to, this Mortgage or any of the other Loan Documents; (iii) all of the covenants, obligations and agreements of Borrower in, under or pursuant to the Note, this Mortgage, and all of the other Loan Documents; (iv) all advances, costs or expenses paid or incurred by Bank to protect any or all of the Collateral (hereinafter defined), perform any obligation of the Borrower hereunder or collect any amount owing to Bank which is secured hereby; (v) any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, recourse or non-recourse, now or hereafter existing or due or to become due, owing by the Borrower to Bank; (vi) interest at the then-applicable interest rates on all of the foregoing; and (vii) all costs of enforcement and collection of this Mortgage and the other Loan Documents, if any, and the Secured Obligations. The maximum amount included within the Secured Obligations on account of principal shall not exceed the sum of an amount equal to four times the original aggregate principal amount of the Note, plus the total amount of all advances made by Bank from time to time to protect the Collateral and the security interest and lien created hereby.

GRANT

NOW THEREFORE, for and in consideration of Bank's making the proceeds of the Loan available to Borrower and any other financial accommodation to or for the

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benefit of Borrower, in consideration of the various agreements contained herein and in the other Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Borrower, and in order to secure the full, timely and proper payment and performance of each and every one of the Secured Obligations, BORROWER HEREBY MORTGAGES, CONVEYS, TRANSFERS AND ASSIGNS, TRANSFERS, WARRANTS AND ASSIGNS TO BANK AND ITS SUCCESSORS AND ASSIGNS, FOREVER, ALL ESTATE, RIGHT, TITLE AND INTEREST THAT BORROWER NOW HAS OR MAY HEREAFTER ACQUIRE IN AND TO, AND GRANTS A CONTINUING SECURITY INTEREST IN, ALL OF THE FOLLOWING (COLLECTIVELY REFERRED TO HEREIN AS THE "COLLATERAL"):

(A) Land. All of the land described on Exhibit A-1 and A-2 attached hereto; together with all tenements, rights, easements, hereditaments, rights of way, privileges, liberties, appendages and appurtenances now or hereafter belonging or in any-wise appertaining to the land (*including, without limitation, all rights relating to storm and sanitary sewer, water, gas, electric, railway and telephone services*); all air rights, water, water rights, water stock, gas, oil, minerals, coal and other substances of any kind or character underlying or relating to the land; all estate, claim, demand, right, title or interest of the Borrower in and to any street, road, highway, or alley (*vacated or otherwise*) adjoining the land or any part thereof; all strips and gores belonging, adjacent or pertaining to the land; and any after-acquired title to any of the foregoing (*all of the foregoing is herein referred to collectively as the "Land"*);

(B) Improvements and Fixtures. All buildings, structures, replacements and other improvements and property of every kind and character now or hereafter located or erected on the Land, or used in or necessary to the complete and proper planning, development, use, occupancy or operation thereof, or acquired (*whether delivered to the Land or stored elsewhere*) for use or installation in or on the Land or in or on any building, structure, or other improvements now or hereafter situated on the Land, and all renewals and replacements of, substitutions for and additions to the foregoing, together with all furnishings, fixtures, fittings, building or construction materials, equipment, appliances, machinery, plant equipment, apparatus, and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Land, including (*without limitation*) all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power plumbing, air conditioning, refrigeration and ventilation equipment (*except to the extent any of the foregoing items in this subparagraph are owned by tenants and such tenants have the right to remove such items at the termination of their Lease (as hereinafter defined)*) (*all of the foregoing are herein referred to collectively as the "Improvements", all of the Land and the Improvements, and any other property which is real estate under applicable law, is sometimes referred to collectively herein as the "Premises"*);

(C) Personal Property. All equipment, goods, inventory and supplies, including without limitation, machinery, appliances, stoves, refrigerators, water fountains and coolers, fans, heaters, incinerators, compactors, water heaters and similar equipment, signs, blinds, window shades, carpeting, floor coverings, office

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equipment, furniture, linens, growing plants, fire sprinklers and alarms, control devices, HVAC, all window cleaning, building cleaning, swimming pool, recreational, monitoring, garbage, pest control and other equipment, tools, furnishings, furniture, pipes, plumbing, light fixtures, non-structural additions to the Premises, all building materials, equipment, work in process or other personal property of any kind, whether stored on the Premises or elsewhere, which have been or later shall be acquired for the purpose of being delivered to, incorporated into or installed in or about the Premises, and all other tangible property of any kind or character now or hereafter owned by the Borrower and used or useful in connection with the Premises, any construction undertaken on the Premises, any trade, business or other activity (*whether or not engaged in for profit*) for which the Premises is used, the maintenance of the Premises or the convenience of any tenants, guests, licensees or invitees of Borrower, all regardless of whether located on the Premises or located elsewhere (*except to the extent any of the foregoing items in this subparagraph are owned by tenants and such tenants have the right to remove such items at the termination of their Leases*) (*all of the foregoing is herein referred to collectively as the "Goods"*);

(D) Intangibles. All goodwill, trademarks, trade names, option rights, purchase contracts, books and records and general intangibles of Borrower relating to the Premises or the Improvements and all accounts, contract rights, instruments, chattel paper and other rights of Borrower for payment of money, for property sold or lent, for services rendered, for money lent, or for advances or deposits made, and any other intangible Property of the Borrower related to the Land or the Improvements, and all accounts and monies held in possession of Bank for the benefit of Borrower (*all of the foregoing is herein referred to collectively as the "Intangibles"*);

(E) Rents. All rents, issues, profits, royalties, avails, income and other benefits derived or owned by Borrower directly or indirectly from the Land or the Improvements, whether now due, past due or to become due, including, without limitation, prepaid rent and security deposits (*all of the foregoing is herein collectively called the "Rents"*);

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

(G) Service Agreements. All rights and interests of Borrower in and under any and all service and other agreements relating to the operation, maintenance, and repair of the Premises or the buildings and improvements thereon (*"Service Agreements"*);

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(H) Plans. All plans, specifications, architectural renderings, drawings, licenses, permits, soil test reports, other reports of examinations or analyses, contracts for services to be rendered Borrower, or otherwise in connection with the Premises and all other property, contracts, reports, proposals, and other materials now or hereafter existing in any way relating to the Premises or the Collateral or construction of additional Improvements thereto (*the "Plans"*);

(I) Loan Proceeds. All proceeds, contract rights and payments payable to Borrower under any loan commitment for financing of the Premises and any interest of the Borrower in any funds of the Loan, whether or not disbursed ("*Loan Proceeds*");

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

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

(L) Betterments. With all right, title and interest of the Borrower in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Premises, hereafter acquired by, or released to, the Borrower or constructed, assembled or placed by the Borrower on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further mortgage, conveyance, assignment or other act by the Borrower, shall become subject to the lien of this Mortgage as fully and completely, and with the same effect, as though now owned by the Borrower and specifically described herein;

(M) Investments. All investment property, including without limitation, certificated and uncertificated securities;

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[N] Supporting Obligations. All liens, guaranties, supporting obligations (including, without limitation, a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a general intangible, an instrument or investment property) and other rights and privileges pertaining to any of the Collateral;

[O] Funds. All monies, reserves, deposits, deposit accounts and interest or dividends thereon, cash or cash equivalents;

[P] Property in Bank Possession. All property now or at any time or times hereafter in the possession or under the control of Bank or its bailee;

[Q] Books and Records. All books, records and computer records in any way relating to the Land; and

[M] Other Property. All other property or rights of the Borrower of any kind or character related to the Land, the Premises or the Improvements and all proceeds (including, without limitation, insurance and condemnation proceeds) and products of any of the foregoing and all accessions to the foregoing and all substitutions, renewals, improvements and replacements of and additions to the foregoing. It is specifically understood that the enumeration of any specific articles of property shall not exclude or be deemed to exclude any items of property not specifically mentioned. All of the Premises hereinabove described, real, personal and mixed, whether affixed or annexed or not, and all rights hereby conveyed and mortgaged are intended to be a unit and are hereby understood and agreed and declared to be appropriated to the use of the Premises, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and mortgaged hereby.

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

THIS MORTGAGE SECURES FUTURE ADVANCES UP TO THE MAXIMUM PRINCIPAL AMOUNT OF EIGHTY-EIGHT MILLION DOLLARS (\$88,000,000.00), PLUS THE TOTAL AMOUNT OF ALL ADVANCES MADE BY BANK FROM TIME TO TIME TO PROTECT THE COLLATERAL. ALL FUTURE ADVANCES HAVE THE PRIORITY OF THE ORIGINAL LOAN. ALL ADVANCES MUST BE MADE WITHIN 20 YEARS AFTER THE DATE OF THE LOAN.

ARTICLE 1. COVENANTS AND AGREEMENTS OF BORROWER

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Pullman Bank and Trust
Mortgage, Assignment of Leases and Rents,
Security Agreement and Financing Statement

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

1.1 Payment of Secured Obligations. Borrower agrees that it shall pay, timely and in the manner required in the appropriate documents or instruments, the principal of and interest on the Note, and all other Secured Obligations (*including fees and charges*). All sums payable by Borrower hereunder shall, except as expressly set forth herein, be paid without demand, counterclaim, offset, deduction or defense. Borrower waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

1.2. Impositions.

1.2.1. Payment of Taxes.

(a) Borrower shall cause to be paid, in the manner set forth in Section 1.2.3 herein, before they become delinquent, all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due (*collectively referred to herein as an "Imposition" or "Impositions"*), that may be levied, assessed, made, imposed or charged on or against the Collateral or any property used in connection therewith, and shall pay before due any tax or other charge on the interest or estate in lands created or represented by this Mortgage or by any of the other Loan Documents, whether levied against Borrower or Bank or otherwise, and shall submit to Bank all receipts showing payment of all of such taxes, assessments and charges.

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

1.2.2. Contest of Impositions. Borrower shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Imposition, by appropriate proceedings diligently conducted in good faith, but only after: (i) payment of such Imposition; or (ii) if payment would operate as a bar to such contest or interfere materially with the prosecution thereof, then Borrower may seek Bank's consent to postpone payment of such Imposition, which Bank shall not unreasonably withhold, so long as:

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(a) neither the Premises nor any part thereof would by reason of such postponement or deferment be, in the reasonable judgment of Bank, in danger of being forfeited or lost; and

(b) Borrower shall have deposited with Bank the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings. Upon termination of any such proceedings, it shall be the obligation of Borrower to cause to be paid the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including counsel fees), interest, penalties or other liabilities in connection therewith. Bank shall disburse said moneys on deposit with it directly to the imposing authority to whom such Imposition is payable and shall promptly return any excess, unapplied moneys to Borrower upon such final determination.

1.2.3. Funds for Obligations.

(a) Commencing on February 1, 2003 and thereafter on the first day of each month during the term hereof, Borrower shall deposit with Bank or its designee an amount sufficient to discharge the obligations of Borrower under Section 1.2.1 hereof as and when such Impositions become due. The determination of the amount payable concurrently with such demand and the fractional part to be deposited on the first day of each month thereafter with Bank shall be made by Bank in its reasonable discretion based on the prior year's Impositions and Bank's good faith estimate of the amount by which Impositions may increase.

(b) Said amounts shall be held by Bank or its designee in an interest bearing account, and provided no Event of Default has occurred and is continuing, shall be applied to the payment of the Impositions automatically without written request from Borrower to Bank. Bank shall have the right to pay such Imposition upon receipt of any bill, invoice, tax bill, bond or assessment therefore, without inquiry into the accuracy or sufficiency of such bill, invoice or assessment. Borrower's liability therefore or any defenses Borrower may have against the payment thereof. If at any time within thirty (30) days prior to the due date of any of the Impositions the amounts then on deposit therefore shall be insufficient for the payment of such Imposition in full, Borrower shall, within ten (10) days after demand, deposit the amount of the deficiency with Bank. If the amounts deposited are in excess of the actual Impositions for which they were deposited, Bank, in its sole and absolute discretion, may refund any such excess, or, at its option, may hold the same in a reserve account, not in trust and not bearing interest, as additional security for the Secured Obligations. Borrower shall deliver to Bank all tax bills, bond and assessment statements, and statements for any other obligations referred to above as soon as the same are received by Borrower.

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(c) Nothing herein contained shall be deemed to affect any right or remedy of Bank under any other provision of this Mortgage or under any statute or rule of law to pay any such amount and to add the amount so paid to the Secured Obligations. All amounts so deposited shall be held by Bank or its designee as additional security for the Secured Obligations and upon the occurrence of an Event of Default hereunder Bank may, in its sole and absolute discretion and without regard to the adequacy of its security hereunder, apply such amounts or any portion thereof to any part of the Secured Obligation. Any such application of said amounts or any portion thereof to any Secured Obligation shall not be construed to cure or waive any Event of Default or Unmatured Default (*defined below*) or invalidate any act done pursuant to any such Event of Default or notice.

(d) If Bank sells or assigns this Mortgage, Bank shall transfer all amounts deposited under this Section 1.2.3 to the purchaser or assignee, and Bank shall thereupon be released and have no further liability hereunder for the application of such deposits, and Borrower shall look solely to such purchaser or assignee for such application and for all responsibility relating to such deposits.

1.3. Maintenance and Repair: Protection of Security.

1.3.1. Borrower shall: (a) not abandon the Premises, nor do or suffer anything to be done which would depreciate or impair the value of the Collateral or the security of this Mortgage; not remove or demolish any of the Improvements; (b) pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any material changes (as determined in the reasonable discretion of Bank), additions or alterations to the Land or the Improvements, except as required by applicable governmental requirements or as otherwise approved in writing by Bank; (c) maintain, preserve and keep the Goods and the Improvements in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction; (d) promptly restore and replace any of the Improvements or Goods which are destroyed or damaged; (e) not commit, suffer, or permit waste of any part of the Premises; and maintain all grounds and abutting sidewalks in good and neat order and repair.

1.3.2. Borrower shall promptly notify Bank of and appear in and defend any suit, action or proceeding that affects the Premises or the rights or interest of Bank hereunder and the Bank may elect to appear in or defend any such action or proceeding. Borrower agrees to indemnify, defend, and reimburse Bank from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' fees and such amounts together with interest thereon at the Interest Rate then in effect under the Note, shall become additional Secured Obligations and shall become immediately due and payable.

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1.4. Prohibited Transfers; Liens. Borrower shall not, without having received the prior, written consent of Bank:

1.4.1. directly or indirectly sell, contract to sell (*if possession of the Premises is to be transferred prior to the closing date, such as an installment agreement for deed*), assign, transfer, convey, or dispose of the Premises, or any part thereof or any interest or estate therein, whether legal, equitable, beneficial or possessory including (i) any conveyance into trust, (ii) any conveyance, sale or assignment of the beneficial interest in any trust holding title to the Premises, (iii) any conveyance, sale or assignment of all or any part of any general partner's interest in a partnership holding title to the Premises or a partnership beneficiary of a trust holding title to the Premises, (iv) any sale, conveyance or assignment of more than 10% in the aggregate during the term hereof of the issued and outstanding capital stock which has voting rights of a corporation holding title to the Premises or a corporate beneficiary of a trust holding title to the Premises, or permit or contract or agree to do any of the foregoing; or (v) any sale, conveyance or assignment of more than 10% in the aggregate during the term hereof of the Member's interest or any sale, conveyance or assignment of any Manager's interest in any limited liability company holding title to the Premises or a limited liability company beneficiary of a trust holding title to the Premises;

1.4.2. subject or permit the Premises, or any portion thereof or interest therein (*whether legal, equitable, beneficial or otherwise*) or estate in any thereof (*including the right to receive the rents and profits therefrom*) directly or indirectly, to any mortgage, deed of trust, lien, claim, security interest, encumbrance or right (*whether senior or junior to, or on a parity with, this Mortgage*); or

1.4.3. subject or permit the beneficial interest under any trust holding title to the Premises, or any portion thereof or interest therein (*whether legal, equitable, beneficial or otherwise*) or estate in any thereof (*or permit the same to be subjected*), directly or indirectly, to any mortgage, deed of trust, lien, claim, security interest, encumbrance, collateral assignment or right; or

1.4.4. lease the Premises.

1.5. Access by Bank. Borrower shall at all times: (a) deliver to Bank either all of its executed originals (*in the case of chattel paper or instruments*) or certified copies (*in all other cases*) of all leases, agreements creating or evidencing Intangibles, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral; (b) upon reasonable advance notice [*provided, however, that after the occurrence and during the continuation of an Event of Default, no such notice shall be required*], permit access by Bank and its agents, representatives, contractors and participants (*if any*) during normal business hours to its books and records, tenant registers, offices, insurance policies and other papers for examination and the making of copies and extracts; (c) prepare such schedules, summaries, reports and progress schedules as Bank and its agents, representatives, contractors and participants (*if any*) may reasonably request; and (d) upon reasonable

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advance notice [provided, however, that after the occurrence and during the continuation of an Event of Default, no such notice shall be required], permit Bank and its agents, representatives, contractors and participants (if any), at all reasonable times, to enter onto and inspect the Premises.

1.6. Stamp and Other Taxes. If the Federal, or any state, county, local, municipal or other, government or any subdivision of any of thereof having jurisdiction, shall levy, assess or charge any tax (excepting therefrom any franchise tax or income tax on the Bank's receipt of interest payments on the principal portion of the Secured Obligations), assessment or imposition upon this Mortgage, the Secured Obligations, the Note or any of the other Loan Documents, the interest of the Bank in the Collateral, or any of the foregoing, or upon Bank by reason of or as holder of any of the foregoing, or shall at any time or times require revenue stamps to be affixed to the Note, this Mortgage, or any of the other Loan Documents, Borrower shall pay all such taxes and stamps to or for Bank as they become due and payable. If any law or regulation is enacted or adopted permitting, authorizing or requiring any tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits Borrower from paying the tax, assessment, stamp, or imposition to or for Bank, then Bank shall have the right, in its sole and exclusive discretion, upon notice to Borrower, to declare all Secured Obligations to be immediately due and payable and all sums hereby secured shall become immediately due and payable.

1.7. Insurance and Eminent Domain.

1.7.1. Required Insurance. Borrower shall at all times maintain or cause to be maintained on the Goods, the Premises and on all other tangible Collateral, all insurance required at any time or from time to time by the other Loan Documents or as reasonably requested by Bank and in any event the following:

(a) Casualty Insurance: Insurance covering the Premises and the Goods in the event of fire, lightning, windstorm, vandalism, malicious mischief and all other risks normally covered by "all risk" coverage policies in an amount equal to 100% of the replacement value thereof, without depreciation (but in no event less than \$22,000,000.00);

(b) Comprehensive General Public Liability Insurance: Comprehensive general public liability insurance (including coverage for elevators and escalators, if any) contractual liability, explosion, underground property, and broad form property damage endorsement, against claims for bodily injury, death or property damage occurring or caused by events occurring on, in or about the Premises and adjoining streets and sidewalks, in an amount not less than \$1,000,000.00 combined single limit. Bank reserves the right to require Borrower to increase the amount of this coverage to an amount Bank may from time to time determine, in its sole and absolute discretion;

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(c) Workers' Compensation Insurance: Worker's Compensation and employers liability insurance covering its employees in such amount as is required by law;

(d) Builder's Risk Insurance: during the course of any construction or repair of the Premises, a Builder's Risk Completed Value Policy of insurance against "all risks", including collapse and transit coverage, during construction of such improvements, covering the total value of work performed and equipment, supplies and materials furnished and, to the extent not covered by other insurance as to which Bank is a named insured during such work;

(e) Contents Insurance: Fire and Extended Coverage Insurance (*contents broad form*) and Sprinkler Leakage Insurance on Borrower's personal property located on the Premises, and on all improvements or betterments constructed by Borrower, in amounts sufficient to fully insure such personal property;

(f) Flood Insurance: insurance against flood (*if required by the Federal Flood Disaster Protection Act of 1973 and regulations issued thereunder or any other law applicable to the Bank*);

(g) Business Interruption/Rent Loss Insurance: Business Interruption Insurance in an amount equal to one-hundred-ten percent (110%) of the gross revenues from the prior year's operation of the hotel on the Northbrook Parcel (as hereinafter defined), for the next succeeding one (1) year period; and

(h) Plate Glass: plate glass, sprinkler, garage and machinery explosion and pressurized vessel insurance.

1.7.2. Terms of Policies. All insurance shall be in such amounts reasonably satisfactory to the Bank, and all to be maintained in such form and with such companies as shall be reasonably approved by the Bank. Borrower shall deliver to and keep deposited with the Bank original certificates and certified copies of all policies of such insurance and renewals thereof, with premiums prepaid, and with (i) standard non-contributory mortgagee and lender's loss payable clauses satisfactory to the Bank entitling Bank to collect any and all proceeds payable under such insurance, (ii) clauses providing for not less than thirty (30) days' prior written notice to the Bank of cancellation or material modification of such policies, attached thereto in favor of the Bank and (iii) standard waiver of subrogation endorsements. Bank shall be an additional named insured and loss-payee of all policies of insurance delivered by Borrower pursuant to this Mortgage. All of the above-mentioned original insurance policies or certified copies of such policies and certificates of such insurance, satisfactory to Bank, together with receipts for the payment of premiums thereon, shall be delivered to and held by Bank, which delivery shall constitute assignment to Bank of all return premiums, to be held as additional security hereunder. All renewal and replacement policies shall be delivered to Bank at least thirty (30) days before the expiration of the expiring policies.

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1.7.3. Failure to Obtain Insurance. If Borrower shall fail to obtain or to maintain any of the policies required by this Mortgage or any other Loan Document or to pay any premium relating thereto or to renew any such policies and to deliver evidence of such renewal to Bank no later than thirty (30) days prior to the expiration of the existing policy, then Bank, without waiving or releasing any obligation or default by Borrower hereunder and whether or not such failure is an Event of Default hereunder, upon five (5) days prior notice to Borrower, may (*but shall be under no obligation to do so*) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Bank deems advisable. All sums so disbursed by Bank pursuant to this Section, including costs relating thereto, shall be payable by Borrower to Bank within five (5) days after demand therefore, plus interest thereon, at the highest default rate set forth in the Note, and shall be additional Secured Obligations.

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

1.7.5. Separate Insurance. Borrower shall not carry any separate insurance on the Improvements or other Collateral concurrent in kind or form with any insurance required hereunder or contributing in the event of loss thereunder, unless such policy contains a standard non-contributing mortgagee clause entitling Bank to collect any and all proceeds thereunder, as well as a standard waiver of subrogation endorsement.

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

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1.7.7. Settlement of Loss. Bank (or after entry of a decree of foreclosure, purchaser at the sale, or the decree creditor, as applicable) is authorized to settle and adjust any claim under such insurance policies which insure against such risk and Bank shall act in its sole and absolute discretion without notice to or consent of Borrower. Bank may elect to permit Borrower to settle, adjust or compromise any claims for loss with the insurance companies on the amounts to be paid with respect to such loss in its sole discretion, by providing Borrower with written notice of such permission. Any reasonable expenses incurred by Bank in the adjustment, collection or determination of the application of insurance proceeds shall be additional indebtedness secured hereby, payable on demand or deducted from insurance proceeds in accordance with Section 1.7.8. Nothing contained in this Mortgage shall create any responsibility or obligation on Bank to collect any amount owing on any insurance policy.

1.7.8. Application of Insurance Proceeds.

(a) In all events, Bank is authorized to collect and receipt for any such insurance proceeds, and such insurance proceeds may, at the option of the Bank, be: (i) applied in reduction of the Secured Obligations, whether due or not; or (ii) held by the Bank and applied to pay for the cost of repair, rebuilding or restoration of the buildings and other improvements on the Premises, provided that in the event the insurance proceeds for any single occurrence are \$2,000,000.00 or less and more than one year remains in the term of the Note, Bank shall apply such proceeds toward the cost of repair, rebuilding or restoration of the buildings or improvements on the Premises.

(b) In the event, in Bank's sole and absolute discretion, the proceeds are to be made available to Borrower for the cost of repair, Bank shall be entitled to reimburse itself to the extent of the reasonably necessary and proper expenses paid or incurred by Bank in the collection and administration of such monies, including reasonable attorney's fees. Any funds received by Bank from insurance provided by Borrower, less any funds Bank is entitled to reimburse itself, shall be defined herein as "Net Insurance Proceeds". If, in Bank's sole and absolute discretion, the Net Insurance Proceeds are to be made available to the Borrower for the cost of repair, rebuilding, and restoration, any surplus which may remain out of said proceeds after payment of such cost of repair, rebuilding and restoration and the reasonable charges of disbursing such funds, if applicable, shall, at the option of the Bank, be applied on account of the Secured Obligations or paid to any party entitled thereto as the same appear on the records of the Bank. In the event the Net Insurance Proceeds are to be made available to Borrower for the cost of repair, such proceeds shall be promptly disbursed to Borrower or its contractor in such a manner as to facilitate the prompt and lien-free construction, repair and/or restoration of the Collateral.

(c) Notwithstanding the foregoing, in case of any loss after foreclosure proceedings have been instituted, all insurance proceeds shall, at Bank's option, be used to pay the amount due in accordance with any decree of foreclosure that may be

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entered in any such proceedings, and the balance, if any, shall be paid to the owner of the equity of redemption if said owner shall then be entitled to the same, or as the court may otherwise direct. In case of the foreclosure of this Mortgage, the court in its decree may provide that the mortgagee's clause attached to each of said insurance policies may be canceled and that the decree creditor may cause a new loss clause to be attached to each of said policies making the loss thereunder payable to said decree creditor. Any foreclosure decree may further provide that in case of any one or more redemptions made under said decree, each successive redepton may cause the preceding loss clause attached to each insurance policy to be canceled and a new loss clause to be attached thereto, making the loss thereunder payable to such redepton. In the event of foreclosure sale, Bank is hereby authorized, without the consent of Borrower, to assign any and all insurance policies to the purchaser at the sale, or to take such other steps as Bank may deem advisable, to cause the interest of such purchaser to be protected by any of the said insurance policies.

1.8. Condemnation and Eminent Domain. Any and all awards heretofore or hereafter made or to be made to the present or any subsequent owner of the Premises by any governmental or other lawful authority for the taking, by condemnation or eminent domain, of all or any part of the Collateral, (including any award from the United States government at any time after the allowance of a claim therefore, the ascertainment of the amount thereof, and the issuance of a warrant for payment thereof), are hereby assigned by Borrower to Bank, which awards Bank is hereby authorized to negotiate, collect and receive from the condemnation authorities. Bank is hereby authorized to give appropriate receipts and acquittance therefore. Borrower shall give Bank immediate notice of the actual or threatened commencement of any condemnation or eminent domain proceedings affecting all or any part of the Premises (including severance of, consequential damage to, or change in grade of streets), and shall deliver to Bank copies of any and all papers served in connection with any such proceedings. Borrower further agrees to make, execute and deliver to Bank, free and clear of any encumbrance of any kind whatsoever, any and all further assignments and other instruments deemed necessary by Bank for the purpose of validly and sufficiently assigning all awards and other compensation heretofore, now and hereafter made to Borrower for any taking, either permanent or temporary, under any such proceeding. At Bank's option, any such award may either be applied toward the payment of any indebtedness secured by this Mortgage or applied toward restoring the Premises in which event the same shall be paid out in the same manner as is provided for insurance proceeds an Section 1.7.8 hereof. Notwithstanding the foregoing, any expenses, including, without limitation, attorneys' fees and expenses, incurred by Bank in intervening in such action or compromising and settling such action or claim, or collecting such proceeds, shall be reimbursed to Bank first out of the proceeds.

1.9. Governmental Requirements.

1.9.1. Compliance with Laws.

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(a) Borrower shall at all times fully comply with, and cause the Premises and the Collateral and the use and condition thereof fully to comply with, all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders, licensing provisions and decrees of any kind whatsoever that apply or relate to Borrower or the Collateral or the use thereof (including but not limited to any zoning or building laws or ordinances, any noise abatement, occupancy, or environmental protection laws or regulations, any rules or regulations of the Federal Aviation Administration, or any rules, regulations or orders of any governmental agency), and shall observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, easements, rights-of-way, covenants, restrictions, grants, franchises and concessions (including, without limitation, those relating to land use and development, landmark preservation, construction, access, water rights and use, noise and pollution) which are applicable to Borrower or have been granted (whether or not of record) for the Collateral or the use thereof. Unless required by applicable law or unless Bank has otherwise first agreed in writing, Borrower shall not make or allow any material changes [as determined in the reasonable discretion of Bank] to be made in the nature of the occupancy or use of the Premises or any portion thereof for which the Premises or such portion was intended at the time this Mortgage was delivered. Borrower shall not initiate or acquiesce in any change in any zoning or other land use classification now or hereafter in effect and affecting the Premises or any part thereof without in each case obtaining Bank's prior written consent thereto.

(b) At all times the environmental and ecological condition of the Premises shall not be in violation of any law, ordinance, rule or regulation applicable thereto; the soil, surface, water and ground water of or on the Premises shall be free from any solid waste, toxic, hazardous or special substances or contaminants; and the Premises shall not be used for the manufacture, refinement, treatment, storage, hauling or disposal of any such material. No "Hazardous Materials" (as hereinafter defined) or materials containing Hazardous Materials, shall be discharged, dispersed, released, stored, treated, generated, disposed of, allowed to escape on the Premises; nor installed, located on, used in connection with, incorporated into or disposed of on the Premises; no underground storage tanks shall be located on the Premises; and the Premises shall be in compliance with all applicable federal, state and local statutes, laws, regulations, ordinances, orders, or codes relating to environmental matters.

(c) "Hazardous Materials" means asbestos, polychlorinated biphenyls, and any hazardous, toxic or special substance, material or waste that is regulated by any governmental authority, including the state in which the Premises is located or the United States government and includes, without limitation, any material, substance or waste that is (i) designated as such pursuant to Section 307 of the Federal Water Pollution Control Act 33 U.S.C. §1251 et seq. (33 U.S.C. §1317); (ii) defined as such pursuant to § 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. §6901 et. seq. (42 U.S.C. §6903); (iii) defined as such pursuant to §101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et. seq. (42 U.S.C. §9601); or (iv) designated or defined under any applicable

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federal or state statute or county or municipal law, regulation, ordinance, order or code, in each case as amended.

(d) Borrower agrees that in the event any federal, state or local government or law enforcement agency or a court of competent jurisdiction requires, orders or decrees ("Requirement") that Borrower undertake any investigation, analyses, response, remediation or clean-up of the Premises, including the proper disposal of any hazardous, radioactive, mixed or other solid waste ("Remediation") that it shall immediately:

(i) inform Lender of Requirement and its plans to comply and undertake Remediation and the progress of Remediation;

(ii) comply with such Requirement at Borrower's sole cost and expense, whether or not Borrower chooses to appeal or contest such Requirement, within the periods set forth in the Requirement; and

(iii) inform Lender of the closure and completion of Remediation.

1.9.2. Contest of Laws; Indemnification. Borrower shall have the right, after obtaining written consent from Bank, which consent shall not be unreasonably withheld so long as there exists no material threat to the priority of the Lien of the Mortgage, the Loan Documents or the value of the Collateral, as determined by Bank, to contest by appropriate legal proceedings conducted in the name of Borrower, the validity or application of any ordinances, requirements, regulations, rules, orders and decrees of the nature referred to in subsection 1.9.1. above. Borrower shall indemnify and hold Bank harmless from any cost, expense, liability or damage, including reasonable attorney's fees, relating to such contest. Borrower hereby indemnifies Bank against any loss or damage suffered by Bank as a result of any breach of this section 1.9.

1.10. Mechanics' Liens.

1.10.1. Prohibitions Against Liens. Subject to Borrower's rights set forth in Section 1.10.2, Borrower shall not permit any mechanics' or other construction lien to be recorded against or attach to the Premises or any part thereof. In addition, it is further expressly made a covenant and condition hereof that the lien of this Mortgage shall extend to any and all improvements and fixtures now or hereafter on the Premises, prior to any other lien thereon that may be claimed by any person, so that subsequently accruing claims for lien on the Premises shall be junior and subordinate to this Mortgage. ALL CONTRACTORS, SUBCONTRACTORS, AND OTHER PARTIES DEALING WITH THE PREMISES, OR WITH ANY PARTIES INTERESTED THEREIN, ARE HEREBY REQUIRED TO TAKE NOTICE OF THE ABOVE PROVISIONS.

1.10.2. Discharge and Contest of Mechanic's Liens. If any mechanic's, laborer's or materialmen's lien shall at any time be filed against the Premises or any

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part thereof, Borrower, within thirty [30] days after notice of the filing thereof, shall (i) cause the same to be discharged of record or otherwise stayed by payment, deposit, order of a court of competent jurisdiction ("Discharged") or, (ii) in the event Borrower elects to contest such lien in good faith and due diligence, bonded or insured over ("Bonded") by a title insurance company acceptable to Bank, such bond or insurance to be in form and substance acceptable to Bank. If Borrower shall fail to cause such lien to be Discharged or Bonded within such period then, in addition to any other right or remedy, Bank may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Bank shall be entitled, if Bank so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor, with interest, costs and allowances. In any event, if any suit action or proceedings shall be brought to foreclose or enforce any such lien (*whether or not the prosecution thereof was so compelled by Bank*), Borrower shall, at its own sole cost and expense, promptly pay, satisfy and discharge any final judgment entered therein, in default of which Bank, at its option, may three (3) days after notice thereof, do so. Any and all amounts so paid by Bank as in this Section provided, and all costs and expenses paid or incurred by Bank in connection with any or all of the foregoing matters, including, without limitation, reasonable attorneys' fees and disbursements, shall become due and payable within five (5) days after notice thereof, such amounts, charges, costs, expenses, fees and sums, together with interest thereon at the highest default rate of interest specified under the Note.

1.11. Continuing Priority. Subject to Borrower's right to contest set forth in Sections 1.9 and 1.10 hereof, Borrower shall pay such fees, Impositions and charges, execute and file (*at Borrower's expense*) such financing statements, obtain such acknowledgments or consents, notify such obligors or providers of services and materials and do all such other acts and things as Bank may from time to time request to establish and maintain a valid and perfected first and prior lien on, and security interest in, the Collateral, and to provide for payment to Bank directly of all cash proceeds thereof, with Bank in possession of the Collateral to the extent it requests; keep all of its books and records relating to the Collateral on the Premises or at the principal office of the Borrower; keep all tangible Collateral on the Premises, except where Borrower replaces such tangible Collateral with similar tangible Collateral of equal or greater value, or as Bank may otherwise consent in writing; make notations on its books and records sufficient to enable Bank, as well as third parties, to determine the interest of the Bank hereunder; and not collect any rents or the proceeds of any of the Leases or Intangibles more than thirty (30) days before the same shall be due and payable (*except as the Bank may otherwise consent in writing*), except for deposits by tenants of the Premises to secure such tenant's performance of its obligations under its Lease.

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

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1.13 Financial Statements. Borrower agrees to furnish to Bank, within fifteen (15) days after the end of each quarter, Borrower's quarterly financial statements.

1.14. Contract Maintenance; Other Agreements. Borrower shall, for the benefit of Bank, fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant, and restriction affecting the Premises or imposed on it under any agreement between Borrower and a third party relating to the Collateral or the Secured Obligations so that there shall be no default thereunder and so that the persons (*other than Borrower*) obligated thereon shall be and remain at all times obligated to perform for the benefit of the Bank. Except as expressly contemplated in the Loan Documents, Borrower shall not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance.

1.15. Notify Bank of Default. Borrower shall notify Bank in writing within five (5) days after the date on which it becomes aware of or receives notice of the occurrence of any Event of Default or other event which, upon the giving of notice or the passage of time or both, would constitute an Event of Default hereunder or under and of the other Loan Documents (an "Unmatured Default").

1.16. Future Leases. Borrower shall not cause or permit (*by operation of law or otherwise*) any Rents, Leases, or other contracts relating to the Premises to be assigned to any party other than Bank without first obtaining the express written consent of Bank to any such assignment. Nor shall Borrower permit any such assignment to occur by operation of law. In addition, Borrower shall not cause or permit all or any portion of, or interest in, the Premises or the Improvements to be leased (*that word having the same meaning for purposes hereof as it does in the law of landlord and tenant*) directly or indirectly to any person, except in accordance with Section 1.4.4 hereof.

1.17. Borrower to Comply with Leases. Borrower shall, at its own cost and expense:

(a) Faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any Leases to be performed by the landlord thereunder;

(b) Enforce or secure the performance of each and every material obligation, covenant, condition and agreement of Leases by the tenants thereunder to be performed;

(c) Not borrow against, pledge or further assign any rentals due under the Leases;

(d) Not permit the prepayment of any rents due under any Lease for more than thirty (30) days in advance nor for more than the next accruing installment of

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rents, nor anticipate, discount (*other than front-end incentives such as rent abatement*), compromise, forgive or waive any such rents;

(e) Not waive, excuse, condone or in any manner release or discharge any tenants of or from the obligations, covenants, conditions and agreements by said tenants to be performed under the Leases without the express prior written consent of Bank;

(f) Not permit any tenant to assign or sublet its interest in its Lease unless expressly required to do so by the terms of the Lease and then only if such assignment does not work to relieve the tenant of any liability for payment of and performance of its obligations under the Lease and only if the new tenant is of the same or better creditworthiness as the prior tenant and the terms of the new Lease provide for the same or better use of the leased space;

(g) Not terminate any Lease or accept a surrender thereof or a discharge of the tenant unless required to do so by the terms of its Lease or unless the Borrower and tenant or another equally financially responsible tenant shall have executed a new lease effective upon such termination for the same term of years at a rental not less than the greater of (i) rental at fair market value at the time of execution of such new lease or (ii) rental as provided in the terminated lease and on terms no less favorable to the landlord than as in the terminated Lease;

(h) Not consent to a subordination of the interest of any tenant to any party other than Bank and then only if specifically consented to by the Bank; and

(i) Not amend or modify any Lease or alter the obligations of the parties thereunder.

1.18. Bank's Right to Perform Under Leases. Should the Borrower fail to perform, comply with or discharge any obligations of Borrower under any Lease or should the Bank become aware of or be notified by any tenant under any Lease of a failure on the part of Borrower to so perform, comply with or discharge its obligations under said Lease, Bank may, but shall not be obligated to, and without further demand upon Borrower, and without waiving or releasing Borrower from any obligation in this Mortgage contained, remedy such failure, and Borrower agrees to repay upon demand all sums incurred by the Bank in remedying any such failure together with interest at the Default Rate. All such sums, together with interest at the Default Rate shall become so much additional Secured Obligations, but no such advance shall be deemed to relieve the Borrower from any default hereunder.

1.19. Assignment of Rents, Leases and Profits.

1.19.1. The Borrower does hereby irrevocably, unconditionally and absolutely sell, assign, and transfer unto Bank all of the Rents, Leases and profits from the Premises, it being the intention of this Mortgage to establish an absolute

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transfer and assignment of all such Rents, Leases and profits from and on the Premises unto the Bank and the Borrower does hereby appoint irrevocably Bank its true and lawful attorney, in its name and stead, which appointment is coupled with an interest, to collect all of said Rents and profits; provided that, Bank grants the Borrower the privilege to collect and retain such rents, income, and profits unless and until an Event of Default exists under this Mortgage.

1.19.2. Upon the occurrence of an Event of Default, and whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale of the Premises or during any period of redemption, Bank, without regard to waste, adequacy of the security or solvency of the Borrower, may revoke the privilege granted Borrower hereunder to collect the rents, issues and profits of the Premises, and may, at its option, upon five [5] prior written notice:

(a) In person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, give, or require Borrower to give, notice to any or all tenants under any Lease authorizing and directing the tenant to pay such rents and profits to Bank; collect all of the rents, issues and profits; enforce the payment thereof and exercise all of the rights of the landlord under any Lease and all of the rights of Bank hereunder, including, without limitation, the right to sue in the name of Borrower and/or Bank for any unpaid rents; enter upon, take possession of, manage and operate said Premises, or any part thereof, cancel, enforce or modify any Lease, and fix or modify rents, and do any acts which the Bank deems proper to protect the security hereof with or without taking possession of said Premises; and

(b) Apply for the appointment of a receiver in accordance with the statutes and law made and provided for, which receivership Borrower hereby consents to, which receiver shall collect the rents, profits and all other income of any kind, manage the Premises so as to prevent waste, execute leases within or beyond the period of receivership, and apply the rents, profits and income in the following order:

- (i) to payment of all reasonable fees of any receiver appointed hereunder;
- (ii) to application of tenant's security deposits;
- (iii) to payment when due of prior or current Impositions with respect to the Premises or, if this Mortgage so requires, to the periodic escrow for payment of the Impositions when due;
- (iv) to payment when due of premiums for insurance of the type required by the Mortgage or as deemed reasonably necessary by Bank, or, if this Mortgage so requires, to the periodic escrow for the payment of premiums then due;

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(v) to payment of all expenses for maintenance, repair and restoration of the Premises;

(vi) if received prior to a foreclosure sale, such amounts shall be paid to the Bank and applied by Bank to the Secured Obligations in accordance with the terms of the Loan Documents; provided that, if the Premises shall be foreclosed and sold pursuant to a foreclosure sale, then during the period of redemption from such foreclosure sale:

(1) If the Bank is the purchaser at the foreclosure sale, the rents shall be paid to the Bank to be applied to the extent of any deficiency remaining after the sale, the balance to be retained by the Bank, and if the Premises be redeemed by the Borrower or any other party entitled to redeem, the rents shall be applied as a credit against the redemption price provided that, if the Premises shall not be redeemed, any remaining excess rents are to be paid to the Bank whether or not a deficiency exists;

(2) If the Bank is not the purchaser at the foreclosure sale, the rents shall be paid to the Bank to be applied to the Secured Obligation to the extent of any deficiency remaining after the sale, and the balance, if any, shall be paid to the purchasers to be applied as a credit against the redemption price, provided that, if the Premises shall not be redeemed, any remaining excess rents shall be paid to the purchasers.

1.19.3. The entering upon and taking possession of the Premises, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any defaults under this Mortgage nor in any way operate to prevent the Bank from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage or the Loan Documents nor shall it in any way be deemed to constitute the Bank a mortgagee-in-possession. The rights and powers of the Bank hereunder shall remain in full force and effect both prior to and after any foreclosure of the Mortgage and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including the Bank, shall have the right, at any time and without limitation, to advance money to any receiver appointed hereunder to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Premises and the sum so advanced, with interest at the highest default rate in any note, shall be a part of the sum required to be paid to redeem from any foreclosure sale.

1.19.4. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Premises are in danger of being lost, materially injured or damaged or whether the Premises are adequate to discharge the Secured

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Obligations. The rights contained herein are in addition to and shall be cumulative with the rights given in any separate instrument, if any, assigning any leases, rents and profits of the Premises and shall not amend or modify the rights in any such separate agreement.

1.20. Bank's Performance. If Borrower fails to pay or perform any of its obligations herein contained (*including payment of expenses of foreclosure and court costs*) and all applicable grace or cure periods, if any, have expired, Bank may (*but need not*), as agent or attorney-in-fact of Borrower, make any payment or perform (*or cause to be performed*) any obligation of Borrower hereunder, in any form and manner deemed expedient by Bank, and any amount so paid or expended (*plus reasonable compensation to Bank for its out-of-pocket and other expenses for each matter for which it acts under this Mortgage*), with interest thereon at the Default Rate, shall be added to the principal debt hereby secured and shall be repaid to Bank within five (5) days after notice thereof. By way of illustration only, and not in limitation of the foregoing, Bank may (*but shall have no obligation to*) do all or any of the following: make payments of principal or interest or other amounts on any lien, encumbrance or charge on any of the Collateral; make repairs; collect rents; prosecute collection of the Collateral or proceeds thereof; purchase, discharge, compromise or settle any tax lien or any other lien, encumbrance, suit, proceeding, title or claim thereof, contest any tax or assessment; and redeem from any tax sale or forfeiture affecting the Premises. In making any payment or securing any performance relating to any obligation of Borrower hereunder, Bank shall (*as long as it acts in good faith*) be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof. No such action of Bank shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any event which constitutes an Event of Default.

1.21 Bank not Responsible. Under no circumstances shall Bank have any duty to produce Rents from the Property. Regardless of whether or not Bank, in person or by agent, takes actual possession of the Premises, Bank is not and shall not be deemed to be: (a) a "mortgagee in possession" for any purpose; (b) responsible for performing any of the obligations of the lessor under any lease; (c) responsible for any waste committed by lessees or any other parties, any dangerous or defective condition of the Premises, or any negligence in the management, upkeep, repair or control of the Premises; or (d) liable in any manner for the Premises or the use, occupancy, enjoyment or operation of all or any part of it.

1.22. Subrogation. To the extent that Bank, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Mortgage, or Borrower or any other person pays any such sum with the proceeds of the loan secured hereby, to the extent permitted by applicable law, Bank shall have and be entitled to a lien or other interest on the Collateral equal in priority to the lien or other interest discharged and Bank shall be subrogated to, and receive and enjoy all rights and liens possessed, held or

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enjoyed by, the holder of such lien, which shall remain in existence and benefit Bank in securing the Secured Obligations.

ARTICLE 2. DEFAULT

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

2.1. Payment. Failure to make any payment of principal, interest, fees or any other amount due under the Note or this Mortgage within five (5) days after the due date thereof; or failure to pay any of the other Secured Obligations, when and as the same shall become due and payable, whether at maturity or by acceleration or otherwise, within five (5) days after written notice thereof is given to Borrower by Bank.

2.2. Performance. Except as specifically set forth in any other provision of this Article 2, (i) default in the timely and proper performance of any of the covenants or agreements of Borrower contained herein, and the continuation of such failure for ten (10) days after written notice thereof is given to Borrower by Bank, provided that if such default is not reasonably susceptible to cure within such ten [10] day period, Borrower shall have such additional time to cure such default as is reasonably necessary, but in no event to exceed ninety [90] days, so long as Borrower has commenced and is diligently prosecuting such cure to completion; (ii) default in the performance of any of the covenants or agreements of Borrower, any Guarantor or any one or more of them, as applicable, contained in the Note, the Guaranty or in any of the other Loan Documents, provided that to the extent (if any) that such other document or instrument provides a grace or cure period with respect to such default, the same grace or cure period, and only such period, shall apply with respect thereto under this Mortgage; or (iii) default in the performance of any covenant or agreement set forth in Sections 1.4 or 1.9 herein.

2.3. Receiver. Suspension. Attachment. The appointment, pursuant to an order of a court of competent jurisdiction, of a trustee, receiver or liquidator of the Collateral or any part thereof, or of Borrower, or any termination or voluntary suspension of the transaction of business of Borrower, or any attachment, execution or other judicial seizure of all or any substantial portion of Borrower's assets.

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

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2.5. Representations and Warranties. Any representation, warranty, or disclosure made to Bank by Borrower or any Guarantor in connection with or as an inducement to the making of the loan evidenced by the Note, this Mortgage or any of the other Loan Documents, proving to be false or misleading in any material respect as of the time the same was made, whether or not any such representation or disclosure appears as part of this Mortgage.

2.6. Material Destruction of Premises. The Premises or any material part thereof is damaged or destroyed by fire or other casualty and the loss is not adequately covered by insurance actually collected or in the process of collection, and Borrower fails to deposit or to cause to be deposited with the Bank the full amount of the deficiency in cash within ten (10) days of the Bank's written request therefore.

2.7. Condemnation/Eminent Domain. Proceedings are formally commenced by any public or quasi-public body to acquire the land, the Premises or any interest in or any part of any of them by condemnation, eminent domain or any similar power or authority, and such proceeding are not dismissed within thirty (30) days of their being instituted, unless in the Bank's reasonable opinion such acquisition would not materially interfere with the intended uses of the Premises.

2.8. Mechanics Liens. Any lien or notice of lien of any kind whatsoever (*whether for the performance of work or services or the supplying of materials or other things, or in the nature of a judgment lien or lien for Impositions, or otherwise*) is filed or served against the Premises or any part thereof or is received by the Bank, and remains unsatisfied or unbonded to the Bank's satisfaction for a period of thirty (30) days after the Borrower receives notice thereof, provided that Borrower shall have the right to contest such lien in accordance with the terms of Section 1.10 of this Mortgage.

2.9. Creditor's Rights. The Borrower or any Guarantor shall fail to pay its debts, make an assignment for the benefit of its creditors, or shall commit an act of bankruptcy, or shall admit in writing its inability to pay its debts as they become due, or shall seek a composition, readjustment, arrangement, liquidation, dissolution or insolvency proceeding under any present or future statute or law, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within thirty (30) days after its commencement, or shall convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of its property, or any part hereof, in any proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee, liquidator or

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receiver shall not be discharged, or such jurisdiction shall not be relinquished, vacated or stayed within thirty (30) days of the appointment.

2.10. Default under Other Agreements. A default by Borrower shall occur under any agreement, document or instrument (*other than this Mortgage or any of the other Loan Documents*) now or hereafter existing, to which Borrower is a party and the effect of such default is reasonably likely to have a material adverse effect on the financial condition or business operations of Borrower.

2.11. Default On Other Indebtedness. If Borrower is in default in the payment of any indebtedness for borrowed money in an aggregate principal amount outstanding in excess of \$25,000.00 under any agreement (*other than the Loan Documents*), or is in breach of any agreement evidencing such indebtedness (*other than any Loan Document*) and the effect of such default or breach, as the case may be, is to enable the holder thereof then to accelerate the maturity of such indebtedness, unless such default is waived or otherwise ceases to exist.

2.12. Judgments. Judgment(s) is or are rendered against the Borrower requiring payment in excess of insurance coverage of more than \$25,000.00 and Borrower fails to satisfy such judgment within fifteen (15) days thereof or to commence appropriate proceedings to appeal such judgments within the applicable appeal period or, after such appeal is filed, Borrower fails to diligently prosecute such appeal or such appeal is denied and Borrower fails to satisfy such judgment within fifteen (15) days of such denial.

2.13. Existence; Amendments. (a) If Borrower is a corporation and such corporation dissolves, liquidates, or fails to maintain its corporate existence, or fails to maintain its good standing in any state in which it conducts business, or amends its articles of incorporation or by-laws in any material respect; (b) if Borrower or any Guarantor is a partnership and such partnership dissolves, liquidates, or fails to maintain its partnership existence or amends its certificate of limited partnership or partnership agreement in any material respect; (c) if Borrower or any Guarantor is a limited liability company and such limited liability company dissolves, liquidates, or fails to maintain its limited liability company existence, or fails to maintain its good standing in any state in which it conducts business, or amends its certificate of organization or operating agreement in any material respect; (d) if Borrower or any Guarantor is a trust and such trust dissolves, liquidates, or fails to maintain its trust existence or amends the trust agreement in any material respect; or (e) if Borrower or any Guarantor is a person and such person dies or otherwise becomes incompetent.

ARTICLE 3. REMEDIES

3.1. Acceleration. Upon the occurrence of any Event of Default, the entire indebtedness evidenced by the Note any and all other Secured Obligations, together with interest thereon at the Default Rate shall, at the option of Bank, be immediately due and payable, upon five (5) days prior written notice to Borrower.

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3.2. Possession of Premises; Remedies under Loan Documents and Note.

Upon five (5) days prior written notice to Borrower, Bank is hereby expressly authorized and empowered, at and following the occurrence of any Event of Default, to enter into and upon and take possession of the Premises or any part thereof, to complete any construction or repairs in progress thereon at the expense of Borrower, to lease the same, to collect and receive all Rents and to apply the same, less the necessary or appropriate expenses of collection thereof, either for the care, operation and preservation of the Premises or, at the election of Bank in its sole discretion, to a reduction of the Secured Obligations in such order as Bank may, in its sole discretion elect. Bank, in addition to the rights provided under the Note and any of the other Loan Documents, upon five (5) days prior written notice to Borrower, is also hereby granted full and complete authority to enter upon the Premises, employ watchmen to protect the Goods and Improvements from depredation or injury and to preserve and protect the Collateral, and to continue any and all outstanding contracts for the erection, completion or repair of improvements to the Premises, to make and enter into any contracts and obligations wherever necessary in its own name, and to pay and discharge all debts, obligations and liabilities incurred thereby, all at the expense of Borrower. All such expenditures by Bank shall be Secured Obligations hereunder. Upon the occurrence of any Event of Default, Bank may also exercise any or all rights or remedies under the Note and any of the other Loan Documents.

3.3. Foreclosure; Receiver.

3.3.1. Upon the occurrence of any Event of Default, Bank shall have the right immediately or at any time thereafter to foreclose the lien of this Mortgage.

3.3.2. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of Bank, in Bank's sole and absolute discretion, appoint a receiver of the Premises. Such appointment may be made either before or after sale, without regard to the solvency or insolvency, at the time of application for each receiver, of the person or persons, if any, liable for the payment of the indebtedness secured hereby; without regard to the value of the Premises at such time and whether or not the same is then occupied as a homestead, without bond being required of the applicant; and Bank hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the Mortgage Foreclosure Act in effect, if any, in the State in which the Land is located, including the power to take possession, control and care of the Premises and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the indebtedness secured by this Mortgage, and in the event of a sale and a deficiency where Borrower has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Borrower or its devisees, legatees, administrators, legal representatives, successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be

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necessary or useful in such cases for the protection, possession, control, management and operation of the Premises during the whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing leases and make new leases of the Mortgaged Property or any part thereof, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Loan, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Premises are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale, notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser or at any time thereafter.

3.3.3. The court may, from time to time, authorize said receiver to apply the net amounts remaining in his hands, after deducting reasonable compensation for the receiver and his counsel as allowed by the court, in payment (*in whole or in part*) of any or all of the Secured Obligations, including without limitation the following, in such order of application as Bank may, in its sole and absolute discretion, elect: (i) amounts due upon the Note, (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage, (iii) costs and expenses of foreclosure and litigation upon the Premises, (iv) insurance premiums, repairs, Impositions, water charges and interest, penalties and costs, in connection with the Premises, (v) any other lien or charge upon the Premises that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same and (vi) all moneys advanced by Bank to cure or attempt to cure any default by Borrower in the performance of any obligation or condition contained in any of the other Loan Documents or this Mortgage or otherwise, to protect the security hereof provided herein, or in any of the other Loan Documents, with interest on such advances at the interest rate applicable after maturity under the Note.

3.3.4. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Premises, as Bank may elect, until all of the Premises have been foreclosed against and sold. As part of the foreclosure, Bank in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Premises, and all right, title, interest, claim and demand therein, and the right of redemption thereof, as an entirety, or in separate lots, as Bank may elect, and in one sale or in any number of separate sales held at one time or at any number of times, all in any manner and upon such notice as provided by applicable law. Upon the completion of any such sale or sales, Bank shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers of the property so sold, in the manner and form as provided by applicable law, and Bank is hereby irrevocably appointed the true and lawful attorney-in-fact of Borrower, in its name and stead, to make all necessary transfers of property thus sold, and for that purpose Bank may execute and deliver, for and in the name of Borrower, all necessary instruments of assignment and transfer, Borrower hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof.

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

3.4. Remedies for Leases and Rents.

3.4.1. If any Event of Default shall occur, then, whether before or after institution of legal proceedings to foreclose the lien of this Mortgage or before or after the sale thereunder, and upon five (5) days prior written notice to Borrower, Bank shall be entitled, in its discretion, to do all or any of the following:

- (a) Enter and take actual possession of the Premises, the Rents, the Leases and other Collateral relating thereto or any part thereof personally, or by its agents or attorneys, and exclude Borrower therefrom;
- (b) Enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Borrower relating thereto;
- (c) As attorney-in-fact or agent of Borrower, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Premises, the Rents, the Leases and other Collateral relating thereto and conduct the business, if any, thereof (*including entering into new leases of the Premises, or any part thereof, under such terms and conditions as Bank, in its sole and absolute discretion, may elect*) either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the Rents, the Leases and other Collateral relating thereto (*including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent*);
- (d) Cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Borrower to cancel the same;
- (e) Elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;
- (f) Make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its sole discretion, may seem appropriate;

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(g) Insure and reinsure the Collateral for all risks incidental to Bank's possession, operation and management thereof; and

(h) Receive all such Rents and proceeds, and perform such other acts in connection with the management and operation of the Collateral, as Bank in its sole discretion may deem necessary or desirable.

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

3.4.3. The entering upon and taking possession of the Premises, or any part thereof, and the collection of any Rents and the application thereof as aforesaid shall not cure or waive any default theretofore or thereafter occurring or affect any notice or default hereunder or invalidate any act done pursuant to any such default or notice, and, notwithstanding continuance in possession of the Premises or any part thereof by Bank or a receiver, and the collection, receipt and application of the Rents, Bank shall be entitled to exercise every right provided for in this Mortgage or by law or in equity upon or after the occurrence of an Event of Default.

3.4.4. Any of the actions referred to in this Section 3.4 may be taken by Bank irrespective of and without regard to the adequacy of the security for the Secured Obligations.

3.5. Personal Property.

3.5.1. Whenever there exists an Event of Default hereunder, Bank may exercise from time to time any rights, powers and remedies available to it under applicable law and as may be provided in this Mortgage, the Note and the other Loan Documents upon default in the payment of any indebtedness. Upon five (5) days prior written notice to Borrower, Borrower shall, promptly upon request by Bank, assemble the

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Collateral and make it available to Bank at such place or places reasonably convenient for both Bank and Borrower, as Bank shall designate. Any notification of intended disposition required by law of any of the Collateral shall be deemed reasonably and properly given if given at least ten (10) days before such disposition.

3.5.2. Without limiting the generality of the provisions of Section 3.5.1, whenever there exists an Event of Default hereunder, Bank may, with respect to so much of the Collateral as is personal property under applicable law, to the fullest extent permitted by applicable law, upon the giving of notice as required in Section 3.5.1, but without the need for any further notice, advertisement, hearing or process of law of any kind: (i) notify any person obligated on the Collateral to perform directly for Bank its obligations thereunder, (ii) enforce collection of any of the Collateral by suit or otherwise, and surrender, release or exchange all or any part thereof or compromise or extend or renew for any period (*whether or not longer than the original period*) any obligations of any nature of any party with respect thereto, (iii) endorse any checks, drafts or other writings in the name of Borrower to allow collection of the Collateral, (iv) take control of any Proceeds of the Collateral, (v) enter upon any premises where any of the Collateral may be located and take possession of and remove such Collateral, (vi) sell any or all of the Collateral, free of all rights and claims of Borrower therein and thereto, at any public or private sale, and (vii) bid for and purchase any or all of the Collateral at any such sale. Any proceeds of any disposition by Bank of any of the Collateral may be applied by Bank to the payment of expenses incurred in connection with the Collateral, including reasonable attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by Bank toward the payment of such of the Secured Obligations and in such order of application as Bank may from time to time elect.

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

3.6. No Liability on Bank. Notwithstanding anything contained herein, Bank shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Borrower and Borrower shall and does hereby agree to indemnify against and hold Bank harmless of and from any and all liabilities, losses or damages which Bank may incur or pay under or with

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respect to any of the Collateral or under or by reason of its exercise of rights hereunder and any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Collateral or in any of the contracts, documents or instruments evidencing or creating any of the Collateral, unless such liability, claim, cost or demand is caused solely by Bank's willful misconduct. Bank shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other person. Except in the event of the Bank's willful misconduct, no liability shall be enforced or asserted against Bank in its exercise of the powers herein granted to it, and Borrower expressly waives and releases any such liability. Should Bank incur any such liability, loss or damage under any of the Leases or under or by reason hereof, or in the defense of any claims or demands, Borrower agrees to reimburse Bank immediately upon demand for the full amount thereof, including costs, expenses and reasonable attorneys' fees.

3.7. Accounts. Upon the occurrence of any Event of Default, Bank shall, to the fullest extent permitted by law, be entitled to appropriate and apply on the payment of the Secured Obligations (*whether or not due and in any order of priority as may be selected by Bank in its sole and absolute discretion*), any and all accounts and monies held in possession of Bank for the benefit of Borrower.

3.8. Remedies Cumulative. No remedy or right of Bank hereunder or under the Note or any of the other Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by Bank. All obligations of Borrower, and all rights, powers and remedies of Bank, expressed herein shall be in addition to, and not in limitation of, those provided by law or in the Note or any other Loan Documents or any other written agreement or instrument relating to any of the Secured Obligations or any security therefor.

3.9. Compliance with the Illinois Mortgage Foreclosure Law.

3.9.1. In the event that any provision of this Mortgage shall be inconsistent with any provisions of , any law governing the foreclosure of real estate mortgages in the State of Illinois, ("*Mortgage Foreclosure Act*"), the provision of the Mortgage Foreclosure Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the Mortgage Foreclosure Act.

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3.9.2. Borrower and Bank shall have the benefit of all of the provisions of the Mortgage Foreclosure Act, including all amendments thereto which may become effective from time to time after the date hereof. In the event any provision of the Mortgage Foreclosure Act which is specifically referred to herein may be repealed, Bank shall have the benefit of such provision as most recently existing prior to such repeal, as though the same were incorporated herein by express reference.

3.9.3. If any provision of this Mortgage shall grant to Bank any rights or remedies upon default of Borrower which are more limited than the rights that would otherwise be vested in Bank under the Mortgage Foreclosure Act in the absence of said provision, Bank shall be vested with the rights granted in the Mortgage Foreclosure Act to the full extent permitted by law.

ARTICLE 4. GENERAL

4.1 Representations. Borrower hereby covenants and represents that:

(a) Borrower is duly authorized to make and enter into this Mortgage and to carry out the transactions contemplated herein;

(b) This Mortgage has been duly executed and delivered pursuant to authority legally adequate therefore; Borrower has been and is authorized and empowered by all necessary persons having the power of direction over it to execute and deliver this Mortgage; this Mortgage is a legal, valid and binding obligation of Borrower, enforceable in accordance with its terms, subject to bankruptcy and other law, decisional or statutory, of general application affecting the enforcement of creditors' rights, and to the fact that the availability of the remedy of specific performance or of injunctive relief in equity is subject to the discretion of the court before which any proceeding therefore may be brought;

(c) Borrower is not now in default under any instruments or obligations relating to the Premises or Collateral and no party has asserted any claim of default against Borrower relating to the Premises or Collateral;

(d) The execution and performance of this Mortgage and the consummation of the transactions hereby contemplated shall not result in any breach of, or constitute a default under, any articles of incorporation, by-laws, articles of organization, partnership agreement, mortgage, lease, bank loan, or credit agreement, trust indenture, or other instrument to which Borrower is a party or by which it may be bound or affected; nor do any such instruments impose or contemplate any obligations which are or may be inconsistent with any other obligations imposed on Borrower under any other instrument(s) heretofore or hereafter delivered by Borrower;

(e) There are no actions, suits, or proceedings (*including, without limitation, any condemnation or bankruptcy proceedings*) pending or threatened against or affecting

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Borrower or the Collateral, or which may adversely affect the validity or enforceability of this Mortgage, at law or in equity, or before or by any governmental authority; Borrower is not in default with respect to any writ, injunction, decree or demand of any court or any governmental authority affecting the Premises;

(f) Borrower has made a physical investigation of the Premises, and except as set forth on that certain Phase I Environmental Assessment dated July 16, 2002 performed by The English Company, and that certain letter report on the results of the Radiological Investigation performed by STS Consultants dated September 20, 2002, no environmental conditions (*prohibited in Section 1.9.1 hereof*) are present on or affect the Premises; and

(g) All statements, financial or otherwise, submitted to Mortgagee in connection with this transaction are true and correct in all respects and fairly present the financial condition of the parties or entities covered by such statements as of the date hereof.

4.2. Permitted Acts. Borrower agrees that, without affecting or diminishing in any way the liability of Borrower or any other person (*except any person expressly released in writing by Bank*) for the payment or performance of any of the Secured Obligations or for the performance of any obligation contained herein or affecting the lien hereof upon the Collateral or any part thereof, Bank may at any time and from time to time, without notice to or the consent of any person, release any person liable for the payment or performance of any of the Secured Obligations; extend the time for, or agree to alter the terms of payment of, any indebtedness under the Note or any of the Secured Obligations; modify or waive any obligation; subordinate, modify or otherwise deal with the lien hereof, accept additional security of any kind; release any Collateral or other property securing any or all of the Secured Obligations; make releases of any portion of the Premises; consent to the making of any map or plat of the Premises; consent to the creation of a condominium regime on all or any part of the Premises or the submission of all or any part of the Premises to the provisions of any condominium act or any similar provisions of law of the state where the Premises are located, or to the creation of any easements on the Premises or of any covenants restricting the use or occupancy thereof, or exercise or refrain from exercising, or waive, any right Bank may have hereunder or under any of the other Loan Documents.

4.3. Legal Expenses. Borrower agrees to indemnify Bank, and hold Bank harmless, from and against all loss, damage and expense, including (*without limitation*) reasonable attorneys' fees, incurred in connection with any suit or proceeding in or to which Bank may pay or incur in connection with any suit or proceeding in or to which Bank may be made or become a party, which suit or proceeding does or may affect all or any portion of the Collateral or the value, use or operation thereof or this Mortgage or the validity, enforceability, lien or priority hereof or of any of the Secured Obligations. Borrower further agrees to pay all costs or expenses, including, without limitation, reasonable attorneys fees incurred by Bank in connection with the

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negotiation and drafting of this Mortgage or any amendment hereto or in connection with advice sought by Bank relative to its rights or obligations hereunder.

4.4. Loan Documents. Borrower covenants that it shall timely and fully perform and satisfy all the terms, covenants and conditions of any and all Loan Documents under which it is obligated.

4.5. Security Agreement; Fixture Filing. This Mortgage, to the extent that it conveys or otherwise deals with personal property or with items of personal property which are or may become fixtures, shall also be construed as a security agreement under the Uniform Commercial Code as in effect in the state in which the Premises are located, and this Mortgage constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County in which the Premises are located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any Goods or other personal property that may now be or hereafter become such fixtures. The addresses of Borrower, as debtor, and Bank, as secured party, are set forth in Section 4.6 below.

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

If to Borrower: 717 HB Minneapolis, Inc.
c/o HBE Corporation
11330 Olive Boulevard
St. Louis, Missouri 63141

with a copy to: HBE Corporation
11330 Olive Boulevard
St. Louis, Missouri 63141
Attn: President

If to Bank: Pullman Bank and Trust
1000 East 111th Street
Chicago, Illinois 60628
Attn: David Larson, EVP

with a copy to: Lord, Bissell and Brook
115 South LaSalle Street
Suite 3400
Chicago, IL 60603

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Attn: Kenneth M. Lodge, Esq.

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

4.7. Successors; Borrower; Gender. All provisions hereof shall inure to and bind the parties and their respective successors, vendees and assigns. The word "Borrower" shall include all persons claiming under or through Borrower and all persons liable for the payment or performance of any of the Secured Obligations whether or not such persons shall have executed the Note or this Mortgage. Wherever used, the singular number shall include the plural, the singular, and the use of any gender shall be applicable to all genders.

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

4.9. Application of Payments. Upon the occurrence and during the continuation of an Event of Default, Borrower waives the right to direct the application of any and all payments at any time or times hereafter received by Bank on account of the Secured Obligations and Borrower agrees that Bank shall have the continuing exclusive right to apply and re-apply any and all such payments in such manner as Bank may deem advisable, notwithstanding any entry by Bank upon any of its books and records.

4.10. Representation by Counsel. Borrower hereby represents and warrants that Borrower has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage, the Note and the other Loan Documents, and that Borrower has read and understood this Mortgage, the Note and the other Loan Documents and intends to be bound hereby. In the event of an ambiguity or conflict herein or in any other Loan Document, no presumption shall be made against Bank as the preparer or drafter hereof or thereof.

4.11. Release of Mortgage. If the Borrower, its successors or assigns, shall have (i) timely paid all payments of principal, interest, penalties, fees and all other amounts due and owing according to the terms of the Note, this Mortgage and the other Loan Documents, (ii) paid all sums (a) advanced in protecting the lien of this Mortgage, (b) in payment of Impositions, (c) in payment of insurance premiums

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covering improvements thereon, (d) in payment of principal and interest on prior liens, (e) in payment of expenses and attorney's fees herein provided for, and (f) in payment of all sums advanced for any other purpose authorized herein; and (iii) kept and performed all of the covenants and agreements contained in the Note, herein and all other Loan documents, then the Bank shall (*notwithstanding any covenants or agreements in the Environmental Indemnity Agreement or any other Loan Document that survives payment of all principal and interest*) promptly release this Mortgage. Borrower shall pay the cost of recordation of such release.

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

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

4.14. Governing Law. The parties agree that the Federal or state courts in Illinois are a proper forum and shall be the only forum for the resolution of any and all disputes of any nature which may arise between the parties to this Mortgage. No party to the contract shall attempt to change venue from a court in Illinois to a court in any other jurisdiction. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision, or the remaining provisions of this Mortgage.

4.15. Waiver of Rights. Borrower, on behalf of itself and all persons now or hereafter interested in the Premises or the Collateral, to the fullest extent permitted by applicable law, hereby waives all rights under all appraisalment, homestead, moratorium, valuation, exemption, stay, and extension statutes, laws or equities now or hereafter existing, and hereby further waives the right to plead any statute of limitations as a defense to any and all Secured Obligations secured by this Mortgage, and Borrower agrees that no defense, claim or right based on any thereof shall be asserted, or may be enforced, in any action enforcing or relating to this Mortgage or any of this Collateral. Borrower, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to

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the lien of this Mortgage, hereby expressly waives and releases all rights to direct the order in which any of the Collateral shall be sold in the event of any sale or sales pursuant hereto and to have any of the Collateral and/or any other property now or hereafter constituting security for any of the Secured Obligations marshaled upon any foreclosure of this Mortgage or of any other security for any of said indebtedness.

4.16. No Merger. It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should Bank acquire an additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Bank as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

4.17. Bank Not a Joint Venturer or Partner. Borrower and Bank acknowledge and agree that in no event shall Bank be deemed to be a partner or joint venturer with Borrower. Without limitation of the foregoing, Bank shall not be deemed to be such a partner or joint venturer on account of its becoming a mortgagee in possession or exercising any rights pursuant to this Mortgage or pursuant to any other instrument or document evidencing or securing any of the Secured Obligations, or otherwise.

4.18. Time of Essence. Time is declared to be of the essence in this Mortgage, the Note, and any Loan Documents and of every part hereof and thereof.

4.19. WAIVER OF TRIAL BY JURY. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE, THE NOTE OR THE OTHER LOAN DOCUMENTS OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER HEREBY EXPRESSLY ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR BANK TO ACCEPT THIS MORTGAGE AND TO MAKE THE LOAN SECURED HEREBY AND BY THE OTHER LOAN DOCUMENTS.

[SIGNATURE PAGE TO FOLLOW]

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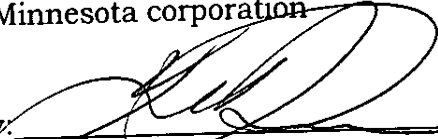
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11/11/14

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IN WITNESS WHEREOF, the undersigned has executed and delivered this Mortgage in Cook County, Illinois on the day and year first above written.

BORROWER:
717 HB MINNEAPOLIS, INC.,
a Minnesota corporation

By: 
Name: Fred S. Kummer
Title: President

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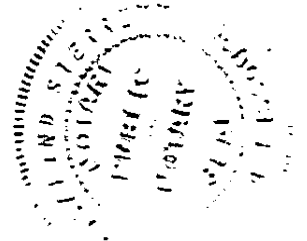
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STATE OF Missouri)
)
COUNTY OF St. Louis)

The Undersigned, a Notary Public within and for said County, in the State aforesaid, duly commissioned and acting do hereby certify that on this 20th day of December, 2002, Fred S. Kummer, of 717 HB Minneapolis, Inc., a Minnesota corporation, personally appeared before me Rosalind Starritt, personally well known and known to be the person who signed the foregoing instrument, and who, being by me duly sworn, stated and acknowledged that he is the President of said company, and that he signed and delivered the same on behalf of said company with authority, as his and its free and voluntary act and deed for the uses and purposes therein mentioned and set forth.

GIVEN under my hand and Notarial Seal, this 20th day of December, 2002

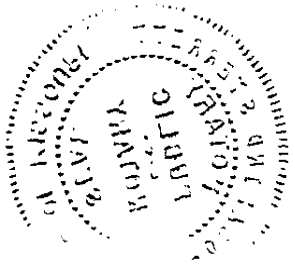
Rosalind Starritt
Notary Public



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EXHIBIT A-1 LEGAL DESCRIPTION CHICAGO PARCEL

PARCEL 1:

THAT PART OF LOTS 1 AND 2 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24, 1987 AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 175.00 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 115.00 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOTS 1 AND 2; THENCE NORTHWARDLY, ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

THAT PART OF LOT 2 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24, 1987 AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT AT THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 290.00 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 38.25 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOT 2; THENCE NORTHWARDLY ALONG SAID WEST LINE OF LOT 2, A DISTANCE OF 38.25 FEET; THENCE EASTWARDLY ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.

PARCEL 3:

THAT PART OF LOT 1 IN BLOCK 8 IN CITYFRONT CENTER, BEING A RESUBDIVISION IN THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON FEBRUARY 24,

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1987 AS DOCUMENT 87106320, BOUNDED AND DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF BLOCK 8 (SAID EAST LINE BEING ALSO THE WEST LINE OF NORTH NEW STREET) WHICH IS 136.75 FEET, AS MEASURED ALONG SAID EAST LINE, SOUTH OF THE NORTH LINE OF SAID BLOCK 8 AND RUNNING THENCE SOUTHWARDLY ALONG SAID EAST LINE OF BLOCK 8, A DISTANCE OF 38.25 FEET; THENCE WESTWARDLY ALONG A LINE PARALLEL WITH THE NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO AN INTERSECTION WITH THE WEST LINE OF SAID LOT 1; THENCE NORTHWARDLY ALONG SAID WEST LINE OF LOT 1, A DISTANCE OF 38.25 FEET; THENCE EASTWARDLY ALONG A LINE PARALLEL WITH SAID NORTH LINE OF BLOCK 8, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.

PARCEL 4:

(PARCEL P-7)

LOT 2 IN BLOCK 8 (EXCEPT THE NORTH 91.75 FEET THEREOF) IN CITYFRONT CENTER, BEING A RESUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 24, 1987 AS DOCUMENT 87106320 IN COOK COUNTY, ILLINOIS.

PARCEL 5:

(PARCEL P-8)

LOT 1 IN BLOCK 8 (EXCEPT THE SOUTH 99.75 FEET THEREOF) IN CITYFRONT CENTER, BEING A RESUBDIVISION OF THE NORTH FRACTION OF SECTION 10, TOWNSHIP 39 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED FEBRUARY 24, 1987 AS DOCUMENT 87106320, IN COOK COUNTY, ILLINOIS.

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EXHIBIT A-2 LEGAL DESCRIPTION NORTHBROOK PARCEL

THAT PART OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 19, TOWNSHIP 42 NORTH, RANGE 12 EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE WEST $\frac{1}{2}$ OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$, AFORESAID, AND RUNNING THENCE NORTH ALONG THE EAST LINE OF SAID TRACT TO THE SOUTHERLY LINE OF WINKELMAN ROAD (SAID SOUTHERLY LINE BEING A STRAIGHT LINE FORMING AN ANGLE OF 78 DEGREES 53 MINUTES AND 30 SECONDS FROM NORTH TO WEST WITH THE EAST LINE OF THE SOUTHWEST $\frac{1}{4}$ OF SECTION 19, AFORESAID, AT A POINT 636.83 FEET NORTH, ALONG THE EAST LINE FROM THE SOUTHEAST CORNER OF SAID NORTHEAST $\frac{1}{4}$ OF SAID SOUTHWEST $\frac{1}{4}$); THENCE NORTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID ROAD TO AN ANGLE IN SAID ROAD; THENCE SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF WINKELMAN ROAD, DEFLECTING AN ANGLE OF 27 DEGREES 40 MINUTES TO THE LEFT WITH SAID SOUTHWESTERLY LINE OF WINKELMAN ROAD EXTENDED NORTHWESTERLY, 68.84 FEET TO THE INTERSECTION OF THE SOUTHEASTERLY LINE OF WINKELMAN ROAD WITH THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE; THENCE SOUTHEASTERLY ALONG A LINE, SAID LINE BEING THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE, FORMING AN ANGLE FROM THE NORTHEAST TO THE SOUTHEAST OF 74 DEGREES 19 MINUTES 30 SECONDS, 313.76 FEET TO AN ANGLE IN SAID ROAD; THENCE SOUTHEASTERLY ALONG A LINE, SAID LINE BEING THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE, DEFLECTING AN ANGLE OF 3 DEGREES 20 MINUTES TO THE LEFT WITH THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE, EXTENDING 541.46 FEET TO AN ANGLE IN SAID ROAD, THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE, ON A LINE DEFLECTING AN ANGLE OF 0 DEGREES 28 MINUTES TO THE RIGHT WITH THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE EXTENDED 207.26 FEET TO THE INTERSECTION OF THE NORTHEASTERLY LINE OF MILWAUKEE AVENUE WITH THE SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ OF SAID SECTION 19; THENCE EAST ALONG THE SOUTH LINE OF THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST $\frac{1}{4}$ ON A LINE FORMING AN ANGLE OF 125 DEGREES 03 MINUTES, FROM NORTHWEST, TO THE EAST, TO THE PLACE OF BEGINNING (EXCEPT FROM SAID TRACT THE SOUTH 382 FEET THEREOF) ALL IN COOK COUNTY, ILLINOIS.

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EXHIBIT B PERMITTED EXCEPTIONS

1. TAXES FOR THE YEAR 2002

2. COVENANTS, CONDITIONS AND RESTRICTIONS CONTAINED IN DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS FOR CITYFRONT CENTER EAST RECORD AS DOCUMENT 89410218, AS AMENDED BY FIRST AMENDMENT TO DECLARATION RECORDED AS DOCUMENT 89608952 AND ANY SUBSEQUENT AMENDMENTS THERETO.

(AFFECTS CHICAGO PARCEL)

3. TERMS, CONDITIONS AND PROVISIONS CONTAINED IN DEVELOPMENT RIGHTS AGREEMENT DATED DECEMBER 31, 1985 AND RECORDED DECEMBER 31, 1985 AS DOCUMENT 85343997 AND FILED DECEMBER 31, 1985 AS DOCUMENT LR3487130.

(AFFECTS CHICAGO PARCEL)

4. DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS IN RESPECT OF PERFORMING ART CENTER, CITYFRONT CENTER EAST CHICAGO DATED DECEMBER 30, 1994 AND RECORDED FEBRUARY 7, 1995 AS DOCUMENT 95092279.

(AFFECTS CHICAGO PARCEL)

5. TERMS, CONDITIONS AND PROVISIONS OF A CERTAIN EASEMENT AGREEMENT DATED DECEMBER 18, 1986 AND RECORDED FEBRUARY 14, 1987 AS DOCUMENT 87106321, MADE BY AND BETWEEN THE CHICAGO DOCK AND CANAL TRUST, THE EQUITABLE LIFE ASSURANCE SOCIETY OF THE UNITED STATES AND THE CITY OF CHICAGO, IN ACCORDANCE WITH THE PLANNED UNIT DEVELOPMENT RECORDED AS DOCUMENT 87106319.

(AFFECTS CHICAGO PARCEL)

6. RIGHTS OF THE MUNICIPALITY, THE STATE OF ILLINOIS, THE PUBLIC AND ADJOINING OWNERS IN AND TO VACATED STREETS AND ALLEYS PER DOCUMENT RECORDED NOVEMBER 26, 1987 AS DOCUMENT 87106319.

(AFFECTS CHICAGO PARCEL)

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7. RIGHTS OF THE PUBLIC AND QUASI-PUBLIC UTILITIES, IF ANY, IN SAID VACATED STREETS AND ALLEYS FOR MAINTENANCE THEREIN OF POLES, CONDUITS, SEWERS AND OTHER FACILITIES, PURSUANT TO DOCUMENT RECORDED NOVEMBER 26, 1987 AS DOCUMENT 87106319.

(AFFECTS CHICAGO PARCEL)

8. TERMS, CONDITIONS AND PROVISIONS OF VACATION ORDINANCE RECORDED NOVEMBER 26, 1987 AS DOCUMENT 87106319.

(AFFECTS CHICAGO PARCEL)

9. TERMS, CONDITIONS AND PROVISIONS OF AN AGREEMENT REGARDING DEVELOPMENT RIGHTS DATED APRIL 18, 1997 AND RECORDED APRIL 18, 1997 AS DOCUMENT 97272956 BY AND BETWEEN THE CHICAGO DOCK AND CANAL TRUST AND THE HOTEL LAND COMPANY, L.L.C.

ASSIGNED TO 717 HB MINNEAPOLIS, INC. BY DOCUMENT RECORDED JANUARY 12, 2002 AS DOCUMENT 00032596.

(AFFECTS CHICAGO PARCEL)

10. GRANT OF EASEMENT RECORDED MAY 27, 1914 AS DOCUMENT 5425701 MADE BY GEORGE ALLISON TO PUBLIC SERVICE COMPANY FOR EASEMENT ALONG MILWAUKEE ROAD.

(AFFECTS NORTHBROOK PARCEL)

11. GRANT OF NONEXCLUSIVE, PERPETUAL RIGHT AND EASEMENT DATED FEBRUARY 6, 1986 AND RECORDED FEBRUARY 20, 1986 AS DOCUMENT 86071878 MADE BY EQUITY SERVICE CORPORATION, INC. AN ARKANSAS CORPORATION TO CITIZENS UTILITIES COMPANY OF ILLINOIS, A CORPORATION OF ILLINOIS, IN, UPON, OVER, ALONG, UNDER, ACROSS AND THROUGH THE LAND TO INSTALL, CONSTRUCT, RECONSTRUCT, OPERATE, MAINTAIN, REPAIR AND RENEW WATER AND/OR SEWER MAINS, PIPES, PUMPS, GATES, VALVES, METERS, HYDRANTS, TRANSMISSION AND COLLECTION LINES, MANHOLES, EFFLUENT LINES AND ALL OTHER APPURTENANCES AND EQUIPMENT INCIDENTAL TO OR NECESSARY OR CONVENIENT TO FURNISH WATER SERVICE AND/OR SEWAGE COLLECTION TREATMENT AND DISPOSAL SERVICE.

(AFFECTS NORTHBROOK PARCEL)

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12. GRANT OF PERPETUAL RIGHT AND EASEMENT FOR WATER MAIN EASEMENT, SANITARY SEWER EASEMENT AND WATER AND SANITARY SEWER EASEMENT IN, UPON, UNDER, OVER AND ALONG THE FOLLOWING DESCRIBED PORTION OF THE LAND TO INSTALL, CONSTRUCT, MAINTAIN, REPAIR AND OPERATE WATER AND/OR SEWER MAINS, PIPES, PUMPS, VALVES, METERS, AND ALL OTHER APPURTENANCES AND EQUIPMENT NECESSARY IN FURNISHING WATER SERVICE, TOGETHER WITH RIGHT OF ACCESS TO SAID EQUIPMENT, GRANTED BY AMERICAN NATIONAL BANK, AS TRUSTEE UNDER TRUST AGREEMENT DATED MARCH 18, 1966 AND KNOWN AS TRUST NUMBER 23167, TO CITIZENS UTILITIES COMPANY OF ILLINOIS DATED FEBRUARY 2, 1988 AND FILED MARCH 25, 1988 AS DOCUMENT LR3696253.

(A) WATER MAIN EASEMENTS OVER, UPON AND UNDER THE SOUTHWESTERLY 15 FEET, THE SOUTH 15 FEET, THE NORTHEASTERLY 15 FEET AND THE EASTERLY 10 FEET, ALL LYING WESTERLY OF AND ADJOINING A LINE DRAWN FROM A POINT ON THE NORTHEASTERLY LINE OF THE HEREINAFTER DESCRIBED TRACT OF LAND, SAID POINT BEING 37.28 FEET WESTERLY OF THE NORTHEAST CORNER OF SAID TRACT OF LAND, TO A POINT ON THE SOUTH LINE OF SAID TRACT THAT IS 112.08 FEET WEST OF THE SOUTHEAST CORNER OF SAID TRACT OF LAND.

(B) SANITARY SEWER EASEMENT OVER, UPON AND UNDER: (A) A STRIP OF LAND 10 FEET IN WIDTH THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHICH BEARS SOUTH 37 DEGREES, 34 MINUTES, 24 SECONDS WEST, A DISTANCE OF 39.93 FEET FROM ANGLE POINT IN THE NORTHEASTERLY LINE OF TRACT OF LAND HEREINAFTER DESCRIBED (SAID ANGLE POINT LOCATED AT THE NORTHWESTERLY PORTION OF SAID TRACT AND NORTHEASTERLY LINE OF SAID TRACT HAVING A BEARING OF NORTH 78 DEGREES, 54 MINUTES, 59 SECONDS WEST FOR PURPOSES OF THIS DESCRIPTION) THENCE SOUTH 37 DEGREES, 05 MINUTES, 58 SECONDS EAST, A DISTANCE OF 422.20 FEET; THENCE SOUTH 79 DEGREES, 04 MINUTES, 30 SECONDS EAST, A DISTANCE OF 141.73 FEET; THENCE SOUTH 09 DEGREES, 50 MINUTES, 38 SECONDS WEST, A DISTANCE OF 61.02 FEET; THENCE SOUTH 79 DEGREES, 58 MINUTES, 13 SECONDS EAST, A DISTANCE OF 142.66 FEET TO A POINT OF TERMINATION OF SAID 10 FOOT STRIP OF LAND; AND (B) A STRIP OF LAND 10 FEET IN WIDTH THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS: COMMENCING AT A POINT WHICH BEARS SOUTH 37 DEGREES, 34 MINUTES, 24 SECONDS WEST, A DISTANCE OF 39.93 FEET FROM ANGLE POINT IN THE NORTHEASTERLY LINE OF TRACT OF LAND HEREINAFTER DESCRIBED (SAID ANGLE POINT LOCATED AT THE NORTHWESTERLY PORTION OF SAID TRACT AND NORTHEASTERLY LINE OF SAID TRACT HAVING A BEARING OF NORTH 78 DEGREES, 54 MINUTES, 59 SECONDS WEST FOR PURPOSES OF THIS DESCRIPTION; THENCE SOUTH 37 DEGREES, 05 MINUTES, 58 SECONDS EAST, A DISTANCE OF 422.20 FEET TO THE POINT OF BEGINNING; THENCE SOUTHWESTERLY TO THE SOUTHWESTERLY LINE OF SAID TRACT ON A LINE PERPENDICULAR TO THE SOUTHWESTERLY LINE OF SAID TRACT;

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(C) WATER AND SANITARY SEWER EASEMENT OVER, UPON AND UNDER THAT PART OF THE HEREINAFTER DESCRIBED TRACT OF LAND LYING WESTERLY OF AND ADJOINING A LINE THAT BEARS SOUTH 22 DEGREES, 54 MINUTES, 42 SECONDS WEST FROM ANGLE POINT IN THE NORTHEASTERLY LINE OF SAID TRACT OF LAND (SAID ANGLE POINT LOCATED AT THE NORTHWESTERLY PORTION OF SAID TRACT AND NORTHEASTERLY LINE OF SAID TRACT HAVING A BEARING OF NORTH 78 DEGREES, 54 MINUTES, 59 SECONDS WEST FOR PURPOSES OF THIS DESCRIPTION) TO THE RIGHT OF WAY LINE OF MILWAUKEE AVENUE.

(AFFECTS NORTHBROOK PARCEL)

13. RIGHTS OF THE PUBLIC, THE STATE OF ILLINOIS AND THE MUNICIPALITY IN AND TO THAT PART OF THE LAND, IF ANY, TAKEN OR USED FOR MILWAUKEE ROAD.

(AFFECTS NORTHBROOK PARCEL)

14. ENCROACHMENT OF THE 29.1 FOOT BY 17.1 FOOT BRICK BUILDING LOCATED MAINLY ON THE LAND ONTO THE 10 FOOT WATER MAIN EASEMENT EAST OF THE BUILDING AND SHOWN HEREIN AS REFERENCE LETTER AH, AS SHOWN ON THE PLAT OF SURVEY, JOB NUMBER BLS-28273 68312, PREPARED BY BELING CONSULTANTS, DATED JUNE 6, 1992.

(AFFECTS NORTHBROOK PARCEL)

15. TERMS, CONDITIONS AND PROVISIONS OF A CERTAIN EASEMENT AGREEMENT DATED FEBRUARY 19, 2002 AND RECORDED MARCH 25, 2002 AS DOCUMENT 0020335942.

(AFFECTS NORTHBROOK PARCEL)

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