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

Dated as of February 17, 2003

between

MARY ALICE CURRAN

and

JENNIFER AUBREY

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



Eugene "Gene" Moore Fee: \$138.50

Cook County Recorder of Deeds

Date: 05/12/2003 02:47 PM Pg: 1 of 25

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT and FINANCING STATEMENT (herein sometimes called this "*Mortgage*") is made as of February 17, 2003, by and between: MARY ALICE CURRAN, a resident of the state of Illinois residing at 5749 North Manton, Chicago, Illinois 60646 (herein, together with its successors and assigns, the "*Mortgagor*"), and JENNIFER AUBREY, a resident (herein, together with its successors and assigns, called the "*Mortgagee*"), residing at 2450 North Lakeview, Chicago, Illinois 60614.

RECITALS

A. *Loan Agreement, Note.*

The Mortgagor and the Mortgagee have entered into a Loan Agreement, dated as of February 17, 2003 (herein, as the same may be amended, modified or supplemented from time to time, called the "*Loan Agreement*"), pursuant to which the Mortgagee has loaned the Mortgagor Ninety Thousand Dollars (\$90,000.00), and the Mortgagor, in evidence its indebtedness to the Mortgagee under the Loan Agreement, has executed and delivered to the Mortgagee its promissory note, dated February 17, 2003 (herein called the "*Note*"), in the original principal amount of Ninety Thousand Dollars (\$90,000.00), to mature on December 31, 2008, the Note being payable to the order of the Mortgagee, bearing interest at the rates provided for therein, and containing provisions for payment of attorneys' fees and acceleration of maturity in the event of default, as therein set forth.

B. *Related Documents.*

Any and all loan agreements (including, without limitation, the Loan Agreement), the Note, and any other documents and instruments executed and delivered by or for the benefit of the Mortgagor, whether pursuant to the terms of the Loan Agreement or otherwise, in connection with the Note or security therefor, or for the purpose of supplementing or amending all or any of the foregoing, all of which, as the same may be amended, modified or supplemented from time to time, are hereinafter referred to as the "*Related Documents*."

C. *The Liabilities.*

As used in this Mortgage, the term "*Liabilities*" means and includes all of the following: all obligations to the Mortgagee and its successors and assigns of the Mortgagor under or in connection with the Loan Agreement, the Note or any of the other Related Documents; and all other obligations of the Mortgagor to the Mortgagee, in each case howsoever created, arising or evidenced, whether direct or indirect, joint or several, Absolute or contingent, or now or hereafter existing, or due or to become due, and whether or not arising out of or in connection with the Loan Agreement, the Note or any of the other Related Documents, including, without limitation, all indebtedness of any kind arising under, and all amounts of any kind which at any time become due or owing to the Mortgagee

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under or with respect to, this Mortgage; all of the covenants, obligations and agreements (and the truth of all representations and warranties to the Mortgagee) in, under or pursuant to the Note, this Mortgage, and the other Related Documents; any and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined) and other collateral under the Related Documents, to perform any obligation of the Mortgagor hereunder and any obligation of the Mortgagor under the Related Documents or collect any amount owing to the Mortgagee which is secured hereby or under the Related Documents; and interest on all of the foregoing; and all costs of enforcement and collection of this Mortgage, the Related Documents and the Liabilities. The portion of the Liabilities evidenced by the Note constitutes "revolving credit" as that term is defined in Illinois Compiled Statutes, Chapter 17, ¶6405, as amended, and as the same may hereafter be amended from time to time. Any future advances under the Note, whether obligatory or made at the option of Mortgagee, shall be secured by this Mortgage, and shall be entitled to the same priority as if such future advances were made on the date hereof.

D. *The Collateral.*

For purposes of this Mortgage, the term "Collateral" means and includes all right, title and interest of the Mortgagor in and to all of the following:

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

(ii) *Improvements and Fixtures.* All buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate and owned or purported to be owned by the Mortgagor, together with all building or construction materials, equipment, appliances, machinery, plant equipment, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate and owned or purported to be owned by the Mortgagor, including, without limitation, all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment (all of the foregoing is herein referred to collectively as the "*Improvements*");

(iii) *Personal Property.* All furniture, furnishings, equipment (including, without limitation, telephone and other communications equipment, window cleaning, building cleaning, monitoring, garbage, air conditioning, pest control and other equipment) and all other tangible property of any kind or character now or hereafter owned or purported to be owned by the Mortgagor and used or useful in connection with the Real Estate, regardless of whether located on the Real Estate or located elsewhere, including, without limitation, all rights of the Mortgagor under any lease to furniture, furnishings, fixtures and other items of personal property at any time during the term of such lease, and all rights under and to all payments and deposits required by the provisions of *Section 1.20 of Article I* below (all of the foregoing is herein referred to collectively as the "*Goods*");

(iv) *Intangibles.* All goodwill, trademarks, trade names, option rights, purchase contracts, books and records and general intangibles of the Mortgagor relating to the Real Estate or the

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Improvements and all accounts, contract rights, instruments, chattel paper and other rights of the Mortgagor for payment of money to it for property sold or lent by it, for services rendered by it, for money lent by it, or for advances or deposits made by it, and any other intangible property of the Mortgagor related to the Real Estate or the Improvements and, if this is a leasehold Mortgage, the Mortgagor's right of election and possession under Section 365(h) of the Federal Bankruptcy Code, as amended from time to time, or any replacement therefor, in the event that the lessor or landlord under the Ground Lease (as defined in *Exhibit A* hereto, if this is a leasehold Mortgage) is a debtor thereunder and rejects the Ground Lease (all of the foregoing is herein referred to collectively as the "*Intangibles*");

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

(vi) *Leases*. All rights of the Mortgagor under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any Person agrees to pay money to the Mortgagor or any consideration for the use, possession or occupancy of, or any estate in, the Real Estate or the Improvements or any part thereof, and all rents, income, profits, benefits, avails, advantages and claims against guarantors under any thereof (all of the foregoing is herein referred to collectively as the "*Leases*"), including, without limitation, that certain [insert description of material leases or, if the Mortgage is a leasehold Mortgage, subleases];

(vii) *Plans*. All rights of the Mortgagor, if any, to plans and specifications, designs, drawings and other matters prepared in connection with the Real Estate (all of the foregoing is herein called the "*Plans*");

(viii) *Contracts for Construction or Services*. All rights of the Mortgagor, if any, under any contracts executed by the Mortgagor with any provider of goods or services for or in connection with any construction undertaken on, or services performed or to be performed in connection with, the Real Estate or the Improvements, including any architect's contract (all of the foregoing is herein referred to collectively as the "*Contracts for Construction*");

(ix) *Contracts for Sale or Financing*. All rights of the Mortgagor, if any, as seller or borrower under any agreement, contract, understanding or arrangement pursuant to which the Mortgagor has, with the prior written consent of the Mortgagee, obtained the agreement of any Person to pay or disburse any money for the Mortgagor's sale (or borrowing on the security) of the Collateral or any part thereof (all of the foregoing is herein referred to collectively as the "*Contracts for Sale*"); and

(x) *Other Property*. All other property or rights of the Mortgagor of any kind or character related to the Real Estate or the Improvements, and all proceeds (including insurance and condemnation proceeds) and products of any of the foregoing. (All of the Real Estate and the Improvements, and any other property which is real estate under applicable law, is sometimes referred to collectively herein as the "*Premises*").

G R A N T

NOW THEREFORE, for and in consideration of the Mortgagee's making any loan, advance or other financial accommodation to or for the benefit of the Mortgagor, including sums advanced under the Note, and in consideration of the various agreements contained herein, in the Note, the Loan Agreement and any other Related Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Mortgagor, and in order to

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secure the full, timely and proper payment and performance of each and every one of the Liabilities,

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

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

The Mortgagor hereby covenants with and warrants to the Mortgagee and with the purchaser at any foreclosure sale that at the execution and delivery hereof it is well seized of the Premises, and of a good, indefeasible estate therein, in fee simple or, if so indicated on Exhibit A, leasehold, that the Collateral is free from all encumbrances whatsoever (and any claim of any other Person thereto) other than the security interest granted to the Mortgagee herein and pursuant to the Related Documents and the encumbrances set forth in the title insurance policy insuring the hen of this Mortgage in favor of the Mortgagee (the "Permitted Exceptions"); that it has good and lawful right to sell, mortgage and convey the Collateral and that it and its successors and assigns will forever warrant and defend the Collateral against all claims and demands whatsoever with the exception of the Permitted Exceptions. If this Mortgage is a leasehold Mortgage, the Mortgagor further covenants and warrants that the Ground Lease is the valid, binding and legal obligation of the parties thereto, is enforceable in accordance with its terms, is in full force and effect and has not been amended or modified in any way (except for the amendments and modifications contained in the instruments included in the definition of "Ground Lease," as more particularly set forth in Exhibit A); that no default has occurred under the Ground Lease and no event has occurred which, with the passage of time or giving of notice, or both, could ripen into a default; that the Mortgagor took possession of the Premises as contemplated by the Ground Lease and has since been in continuous, uninterrupted possession of the Premises and that the Mortgagor and its successors and assigns will forever warrant and defend the same against all claims and demands whatsoever with the exception of the Permitted Exceptions.

ARTICLE I

Covenants and Agreements of the Mortgagor

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

SECTION 1.1 *Payment of Liabilities.* The Mortgagor agrees that it will pay, timely and in the manner required in the appropriate documents or instruments, all amounts due under the Note and all other liabilities (including fees and charges). All sums payable by the Mortgagor hereunder shall be paid without demand, counterclaim, offset, deduction or defense. The Mortgagor waives all rights now or hereafter conferred by statute or otherwise to any such demand, counterclaim, offset, deduction or defense.

SECTION 1.2 *Payment of Taxes.* The Mortgagor will pay or cause to be paid before delinquent all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and hens, ordinary or extraordinary, governmental or nongovernmental, statutory or otherwise, due or to become due, that may be levied, assessed, made, imposed or charged on or

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against the Collateral or any property used in connection therewith, and will 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 Related Documents, whether levied against the Mortgagor or the Mortgagee or otherwise, and will submit to the Mortgagee all receipts showing payment of all of such taxes, assessments and charges; *provided, however*, that the Mortgagor shall not (unless otherwise required by law) be required to pay any such taxes, assessments, levies, claims, charges, expenses or liens which are being contested in good faith and by appropriate proceedings and as to which reserves are being maintained in accordance with GAAP, so long as forfeiture of any part of the Collateral will not result from the failure of the Mortgagor to pay any such taxes, assessments, levies, claims, charges, expenses or liens during the period of any such contest. The Mortgagor's making any payments and deposits required by the provisions of *Section 1.20* of this *Article I* shall not relieve the Mortgagor of, or diminish in any way, its obligations as set out in this *Section 1.2*.

SECTION 1.3 *Maintenance and Repair.* The Mortgagor will not abandon the Premises; not 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; pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any changes, additions or alterations to the Premises or the Improvements except as required by any applicable governmental requirement or as otherwise approved in writing by the Mortgagee; maintain, preserve and keep the Goods and the Improvements in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction, all as promptly as possible under the circumstances but in all cases in compliance with any time period provided under applicable requirements of governmental authorities and insurance underwriters and, if this is a leasehold Mortgage, the Ground Lease; not commit, suffer, or permit waste of any part of the Premises; and maintain all grounds and abutting streets and sidewalks in good and neat order and repair.

SECTION 1.4 *Sales; Liens.* Except as permitted under the Loan Agreement (unless prohibited under the terms of the Ground Lease, if any) or *Section 1.3* hereof, the Mortgagor will not sell, contract to sell, assign, transfer or convey, or permit to be transferred or conveyed, the Collateral or any part thereof or any interest or estate in any thereof (including any conveyance into a trust or any conveyance of the beneficial interest in any trust that may be holding title to the Premises) or remove any of the Collateral from the Premises or from the state in which the Real Estate is located; or create, suffer or permit to be created or to exist any mortgage, lien, claim, security interest, charge, encumbrance or other right or claim of any kind whatsoever upon the Collateral or any part thereof, except those of current taxes not then due and payable, the Permitted Exceptions and mechanics' liens being diligently contested in good faith and otherwise in accordance with *Section 1.10*.

SECTION 1.5 *Access by Mortgagee.* The Mortgagor will at all times deliver to the Mortgagee 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, Plans, Contracts for Construction, Contracts for Sale, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral; permit access at reasonable times by the Mortgagee to the Mortgagor's books and records; permit the Mortgagee to inspect construction progress reports, tenant registers, sales records, insurance policies and other papers for examination and the making of copies and extracts; prepare such schedules, summaries, reports and progress schedules as the Mortgagee may reasonably request and permit the Mortgagee and its agents and designees to inspect the Premises at reasonable times.

SECTION 1.6 *Stamp and Other Taxes.* If the federal, or any state, county, local, municipal or other, government or any subdivision of any thereof having jurisdiction shall levy, assess or

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charge any tax (excepting therefrom any income tax on the Mortgagee's receipt of interest payments on the principal portion of the indebtedness evidenced by the Note), assessment or imposition upon this Mortgage, the Note, any of the other Liabilities or any of the other Related Documents, the interest of the Mortgagee in the Collateral, or any of the foregoing, or upon the Mortgagee by reason of or as holder of any of the foregoing, or shall at any time or times require revenue stamps to be affixed to this Mortgage, the Note, or any of the other Related Documents, the Mortgagor shall pay all such taxes and stamps to or for the Mortgagee as they become due and payable. If any law or regulation is enacted or adopted permitting, authorizing or requiring any tax, assessment or imposition to be levied, assessed or charged, which law or regulation prohibits the Mortgagor from paying the tax, assessment, stamp or imposition to or for the Mortgagee, then all sums hereby secured shall become immediately due and payable at the option of the Mortgagee. Thereafter, if the Mortgagor fails to make payment of all such sums within five days of the Mortgagee's demand therefor, such failure shall constitute a Default (hereinafter defined) hereunder and all sums hereby secured shall become immediately due and payable at the option of the Mortgagee.

SECTION 1.7 Insurance. The Mortgagor will at all times maintain or cause to be maintained on the Goods, the Improvements and on all other Collateral, all insurance required at any time or from time to time by the Mortgagee, and in any event, all risk property insurance covering, without limitation, fire, extended coverage, vandalism and malicious mischief, in an amount which is not less than 100% of the replacement cost of the Improvements and Goods without consideration for depreciation, with an inflation guard endorsement; insurance against business interruption and loss of rentals for such occurrences and in such amounts as the Mortgagor may reasonably require; insurance against flood if required by the Federal Flood Disaster Protection Act of 1973 and regulations issued thereunder; comprehensive general public liability insurance, protecting the Mortgagor in an amount reasonably acceptable to the Mortgagee; during construction, builder's completed value risk insurance against "all risks of physical loss" (including collapse and transit coverage); and all other insurance commonly or, in the judgment of the Mortgagee, prudently maintained by those whose business, improvement to, and use of real estate is similar to that of the Mortgagor, including (without limitation), if applicable, plate glass, boiler explosion, sprinkler leakage, dram shop, employer's liability and worker's compensation insurance; all in amounts satisfactory to the Mortgagee, and all of such insurance to be maintained in such form and with such companies as shall be approved by the Mortgagee. The Mortgagee will at all times deliver to and keep deposited with the Mortgagee original certificates and certified copies of all policies of such insurance and renewals thereof, with premiums prepaid, and with standard noncontributory mortgagee and loss payable clauses satisfactory to the Mortgagee, and clauses providing for not less than thirty (30) days' prior written notice to the Mortgagee of cancellation or material modification of such policies attached thereto in favor of the Mortgagee, its successors and assigns. The Mortgagor's making any payments and deposits required by the provisions of *Section 1.20* of this *Article I* shall not relieve the Mortgagor of, or diminish in any way, its obligations as set out in this *Section 1.7*. All of the above-mentioned original insurance policies or certified copies of such policies and certificates of such insurance satisfactory to the Mortgagee, together with receipts for the payment of premiums thereon, shall be delivered to and held by the Mortgagee, which delivery shall constitute an assignment to the Mortgagee of all return premiums to be held as additional security hereunder. All renewal and replacement policies shall be delivered to the Mortgagee at least thirty (30) days before the expiration of the expiring policies. Subject to the rights of the lessor or landlord under the Ground Lease, if any, the Mortgagor agrees that any loss paid to the Mortgagee under any of such policies shall be applied, at the option of the Mortgagee, toward prepayment of the Note or any of the other Liabilities, or to the rebuilding or repairing of the damaged or destroyed Improvements or other Collateral, as the Mortgagee in its sole and unreviewable discretion may elect (which election shall not relieve the Mortgagor of the duty to rebuild or repair); *provided, however*, that any proceeds of insurance made available for the rebuilding or repairing of the damaged or destroyed Improvements or other Collateral shall be subject to the following conditions:

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(i) No Default or event which, with the lapse of time, the giving of notice, or both, would constitute a Default (an "Unmatured Event of Default") under this Mortgage or the Related Documents shall have occurred or be continuing (and if such an event shall occur during restoration, the Mortgagee may, at its election, apply any insurance proceeds then remaining in its hands to the reduction of the indebtedness evidenced by the Note and the other liabilities).

(ii) The Mortgagor shall have submitted to the Mortgagee plans and specifications for the restoration which shall be reasonably satisfactory to it, which plans and specifications shall not be substantially modified, changed or revised without the Mortgagee's prior written consent and shall be in conformity with all applicable provisions of the Ground Lease, if any, and all governmental regulations, including, without limitation, building, zoning, land use and environmental regulations.

(iii) The Mortgagor, if so requested by the Mortgagee, shall have submitted to the Mortgagee fixed price contracts with good and responsible contractors and materialmen covering all work and materials necessary to complete restoration and providing for a total completion price not in excess of the amount of insurance proceeds available for restoration, or, if a deficiency shall exist, the Mortgagor shall have deposited the amount of such deficiency with the Mortgagee, unless the Mortgagor has made other arrangements or furnished other evidence which is satisfactory to the Mortgagee of the Mortgagor's ability to pay such deficiency in full.

(iv) Any insurance proceeds in excess of \$[^] to be released pursuant to the foregoing provisions may, at the option of the Mortgagee, be disbursed from time to time as restoration progresses to pay for restoration work completed and in place and such disbursements may, at the Mortgagee's option, be made directly to the Mortgagor or to or through any contractor or materialman to whom payment is due or to or through a construction escrow to be maintained by a title insurer reasonably acceptable to the Mortgagee.

(v) The Mortgagee may impose such further conditions upon the release of insurance proceeds (including the receipt of title insurance) as are customarily imposed by prudent construction lenders to insure the completion of the restoration work free and clear of all liens or claims for hen.

(vi) All title insurance charges and other costs and expenses paid to or for the account of the Mortgagor in connection with the release of such insurance proceeds shall constitute so much additional indebtedness secured hereby to be payable upon demand with interest thereafter at the default rate determined with respect to the Note, or such lower maximum rate as shall be legal under applicable law (the "Default Rate"). The Mortgagee may deduct any such costs and expenses from insurance proceeds at any time standing in its hand.

(vii) if the Mortgagor fails to complete restoration within a reasonable time but in all cases in compliance with any time period provided under applicable requirements of governmental authorities and insurance underwriters and, if this is a leasehold Mortgage, the Ground Lease, the Mortgagee shall have the right, but not the obligation, to restore or rebuild the Improvements and the other Collateral, or any part thereof, for or on behalf of the Mortgagor in lieu of applying said proceeds to the indebtedness hereby secured and for such purpose may do all necessary acts, including using funds deposited by the Mortgagor as aforesaid and advancing additional funds for the purpose of restoration, all such additional funds to constitute part of the indebtedness hereby secured, payable upon demand, with interest at the Default Rate.

The Mortgagor hereby empowers the Mortgagee, in its discretion, to settle, compromise and adjust any and all claims or rights under any insurance policy maintained by the Mortgagor relating to the Collateral; provided, however, that prior to the occurrence of any Default or Unmatured Event of Default, the Mortgagor shall have the right to settle, adjust and compromise such claims jointly

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with the Mortgagee. In the event of foreclosure of this Mortgage or other transfer of title to the Premises in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee. Nothing contained in this Mortgage shall create any responsibility or obligation on the Mortgagee to collect any amounts owing on any insurance policy or resulting from any condemnation, to rebuild or replace any damaged or destroyed Improvements or other Collateral or to perform any other act hereunder. The Mortgagee shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and the Mortgagor hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

SECTION 1.8 Eminent Domain. The rights of the Mortgagee under this *Section 1.8* are subject to the rights of the lessor or landlord set forth in the Ground lease, if any. In case the Collateral, or any part or interest in any thereof, is taken by condemnation, the Mortgagee is hereby empowered to collect and receive all compensation and awards of any kind whatsoever (referred to collectively herein as "*Condemnation Award*,") which may be paid for any property taken or for damages to any property not taken (all of which the Mortgagor hereby assigns to the Mortgagee), and all Condemnation Awards so received shall be forthwith applied by the Mortgagee, as it may elect in its sole and unreviewable discretion, to the prepayment of the Note or any of the other liabilities, or to the repair and restoration of any property not so taken or damaged, *provided, however*, that no election made by the Mortgagee under this Section shall relieve the Mortgagor of the duty to repair and restore; *provided, further*, that any Condemnation Awards payable by reason of the taking of less than all of the Collateral shall be made available to the extent required, as determined by the Mortgagee in its reasonable discretion, for the repair or restoration of any Collateral not so taken under the conditions set forth in *Section 1.7* hereof. The Mortgagor hereby empowers the Mortgagee, in the Mortgagee's absolute discretion, to settle, compromise and adjust any and all claims or rights arising under any condemnation or eminent domain proceeding relating to the Collateral or any portion thereof, provided, however, that prior to the occurrence of any Default or Unmatured Event of Default, the Mortgagor shall have the right to settle, compromise and adjust such claims jointly with the Mortgagee.

SECTION 1.9 Governmental Requirements. The Mortgagor will at all times fully comply with, and cause the Collateral and the use and condition thereof fully to comply with, all federal, state, county, municipal, local and other governmental statutes, ordinances, requirements, regulations, rules, orders and decrees of any kind whatsoever that apply or relate to the Mortgagor or the Collateral or the use thereof, and will observe and comply with all conditions and requirements necessary to preserve and extend any and all rights, licenses, permits, privileges, 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 the Mortgagor or have been granted for the Collateral or the use thereof. Unless required by applicable law, or unless Mortgagee has otherwise first agreed in writing, the Mortgagor shall not make or allow any changes to be made in the nature of the occupancy or use of the Premises or any portion thereof for which the Premises or such portion was intended at the time this Mortgage was delivered. The Mortgagor 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 the Mortgagee's prior written consent thereto. Notwithstanding the foregoing, the Mortgagor shall have the right to diligently contest any such governmental requirement so long as the contest is in good faith and by appropriate proceedings and as to which reserves are being maintained in accordance with GAAP, and so long as forfeiture of any part of the Collateral will not result from the Mortgagor's failure to comply with such governmental requirement during the period of such contest.

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SECTION 1.10 *No Mechanics' Liens.* The Mortgagor will not suffer any mechanic's, laborer's or materialmen's lien to be created or remain outstanding upon the Premises or any part thereof. Anything herein contained to the contrary notwithstanding, the Mortgagor shall not be deemed in Default with respect to the provisions of this Section if the Mortgagor provides the Mortgagee with written notice of the Mortgagor's good faith intention to diligently contest such claim or lien (and the Mortgagor does so contest such claim or lien) at the Mortgagor's sole expense and, if requested by the Mortgagee, the Mortgagor furnishes to the Mortgagee either a bond, in form and with sureties reasonably satisfactory to the Mortgagee, or an updated title insurance policy or endorsement to the Mortgagee's existing policy acceptable to the Mortgagee indemnifying or insuring the Mortgagee against any loss, cost, damage or expense on account of any such lien claim. The Mortgagor agrees to promptly deliver to the Mortgagee a copy of any notice that the Mortgagor receives with respect to any pending or threatened lien or the foreclosure thereof. It is further expressly made a covenant and condition hereof that the lien of this Mortgage shall extend to all right, title and interest of the Mortgagor in 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 foregoing provisions.

SECTION 1.11 *Continuing Priority.* The Mortgagor will pay such fees, taxes and charges, execute and file (at the Mortgagor's expense) such financing statements, obtain such acknowledgments or consents, notify such obligors or providers of services and materials and do all such other acts and things as the Mortgagee may from time to time request to establish and maintain a valid and perfected first and prior lien or security interest in the Collateral; maintain its office and principal place of business at all times at the address shown above except as otherwise provided in the Loan Agreement; keep all of its books and records relating to the Collateral on the Premises or at such address; keep all tangible Collateral on the Real Estate except as the Mortgagee may otherwise consent in writing except as otherwise provided in *Section 1.3*; make notations on its books and records sufficient to enable the Mortgagee, as well as third parties, to determine the interest of the Mortgagee hereunder; and not collect any rents or the proceeds of any of the leases or Intangibles more than thirty (30) days before the same shall be due and payable except as the Mortgagee may otherwise consent in writing.

SECTION 1.12 *Utilities.* The Mortgagor will pay or cause to be paid all utility charges incurred in connection with the Collateral promptly when due and maintain all utility services available for use at the Premises.

SECTION 1.13 *Contract Maintenance; Other Agreements; Leases.* The Mortgagor will, for the benefit of the Mortgagee, fully and promptly keep, observe, perform and satisfy each obligation, condition, covenant, and restriction of the Mortgagor affecting the Premises or imposed on it under any agreement between Mortgagor and a third party relating to the Collateral or the Liabilities secured hereby, including, without limitation, the Leases (including the Ground Lease, if any), the Contracts for Sale, Contracts for Construction and the Intangibles (collectively, the "Third Party Agreements"), so that there will be no default thereunder and so that the Persons (other than the Mortgagor) obligated thereon shall be and remain at all times obligated to perform for the benefit of the Mortgagee; and the Mortgagor will 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. Without the prior written consent of the Mortgagee, the Mortgagor shall not (i) make or permit any termination or amendment of the rights of the Mortgagor under any Third Party Agreement; (ii) collect rents or the proceeds of any Leases or Intangibles more than thirty (30) days before the same shall be due and payable; (iii) modify or amend any leases, including, without limitation, the Ground lease, or, except where the lessee is in default, cancel or terminate the same or accept a surrender of the leased

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premises; (iv) consent to the assignment or subletting of the whole or any portion of any lessee's interest under any leases, including, without limitation, the Ground Lease, if any, or grant any options to renew; (v) create or permit any lien or encumbrance which, upon foreclosure, would be superior to any Leases, including, without limitation, the Ground Lease, if any or (vi) in any other manner impair Mortgagee's rights and interest with respect to the Rents or the Ground lease, if any. The Mortgagor shall promptly deliver to the Mortgagee copies of any demands or notices of default received by the Mortgagor in connection with any third Party Agreement and allow the Mortgagee the right, but not the obligation, to cure any such default. In addition, if this Mortgage is a leasehold Mortgage, the Mortgagor shall give, concurrently with the giving thereof or promptly upon receipt, as the case may be, copies of all notices that the Mortgagor sends or receives with respect to the Ground Lease. All security or other deposits, if any, received from tenants under the Leases shall be segregated and maintained in an account satisfactory to the Mortgagee and in compliance with the law of the state where the Premises are located and with an institution satisfactory to the Mortgagee. If this is a leasehold Mortgage, the Mortgagor's making of any payments and deposits required by the provisions of *Section 1.20* of this *Article I* shall not relieve the Mortgagor of, or diminish in any way, its obligations with respect to payment of all amounts due under the Ground Lease as set out in this *Section 1.13*.

SECTION 1.14 *Notify the Mortgagee of Default.* The Mortgagor shall notify the Mortgagee in writing forthwith upon learning of the occurrence of any Default or Unmatured Event of Default hereunder, which notice shall describe such Default or Unmatured Event of Default and the steps being taken by the Mortgagor with respect thereto.

SECTION 1.15 *No Assignments; Future Leases.* The Mortgagor will not cause or permit any Rents, Leases, Contracts for Sale, or other contracts relating to the Premises to be assigned, transferred, conveyed, pledged or disposed of to any party other than the Mortgagee without first obtaining the express written consent of the Mortgagee to any such assignment, or permit any such assignment to occur by operation of law. In addition, the Mortgagor shall not cause or permit all or any portion of or interest in the Premises or the Improvements to be leased (that word having the same meaning for purposes hereof as it does in the law of landlord and tenant) directly or indirectly to any Person, except with the prior written consent of the Mortgagee and, if granted, under Leases approved in writing by the Mortgagee.

SECTION 1.16 *Assignment of Leases and Rents and Collections.*

(a) All of the Mortgagor's interest in and rights under the Leases now existing or hereafter entered into, and all of the Rents, whether now due, past due or to become due, and including all prepaid rents and security deposits, and all other amounts due with respect to any of the other Collateral, are hereby absolutely, presently and unconditionally assigned and conveyed to the Mortgagee to be applied by the Mortgagee in payment of all sums due under the Note, the other Liabilities and all other sums payable under this Mortgage. Prior to the occurrence of any Default, the Mortgagor shall have a license to collect and receive all Rents and other amounts, which license shall be terminated at the sole option of the Mortgagee, without regard to the adequacy of its security hereunder and without notice to or demand upon the Mortgagor, upon the occurrence of any Default or Unmatured Event of Default. It is understood and agreed that neither the foregoing assignment to the Mortgagee nor the exercise by the Mortgagee of any of its rights or remedies under *Article IV* hereof shall be deemed to make the Mortgagee a "mortgagee in possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or any portion thereof, unless and until the Mortgagee, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Collateral by any court at the request of the Mortgagee or by agreement with the Mortgagor, or the entering into possession of any part of the Collateral by such receiver, be deemed to make the Mortgagee a mortgagee-in-possession or otherwise responsible

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or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of all or any portion thereof. Upon the occurrence of any Default or Unmatured Event of Default, this shall constitute a direction to and full authority to each lessee under any leases, each guarantor of any of the Leases and any other Person obligated under any of the Collateral to pay all Rents and other amounts to the Mortgagee without proof of the Default or Unmatured Event of Default relied upon. The Mortgagor hereby irrevocably authorizes each such Person to rely upon and comply with any notice or demand by the Mortgagee for the payment to the Mortgagee of any Rents and other amounts due or to become due.

(b) The Mortgagor shall apply the Rents and other amounts to the payment of all necessary and reasonable operating costs and expenses of the Collateral, debt service on the Liabilities and otherwise in compliance with the provisions of the Loan Agreement.

(c) The Mortgagor shall at all times fully perform the obligations of the lessor under all Leases. The Mortgagor shall at any time or from time to time, upon request of the Mortgagee, transfer and assign to the Mortgagee, in such form as may be satisfactory to the Mortgagee, the Mortgagor's interest in the Leases, subject to and upon the condition, however, that prior to the occurrence of any Default or Unmatured Event of Default hereunder the Mortgagor shall have a license to collect and receive all Rents under such Leases upon accrual, but not prior thereto, as set forth in paragraph (a) above.

(d) The Mortgagee shall have the right to assign the Mortgagee's right, title and interest in any leases to any subsequent holder of this Mortgage or any participating interest therein or to any Person acquiring title to all or any part of the Collateral through foreclosure or otherwise. Any subsequent assignee shall have all the rights and powers herein provided to the Mortgagee. Upon the occurrence of any Default, the Mortgagee shall have the right to execute new leases of any part of the Collateral, including leases that extend beyond the term of this Mortgage. The Mortgagee shall have the authority, as the Mortgagor's attorney-in-fact, such authority being coupled with an interest and irrevocable, to sign the name of the Mortgagor and to bind the Mortgagor on all papers and documents relating to the operation, leasing and maintenance of the Collateral.

SECTION 1.17 *The Mortgagee's Performance.* If the Mortgagor fails to pay or perform any of its obligations herein contained (including payment of expenses of foreclosure and court costs), the Mortgagee may (but need not), as agent or attorney-in-fact of the Mortgagor, make any payment or perform (or cause to be performed) any obligation of the Mortgagor hereunder, in any form and manner deemed expedient by the Mortgagee, and any amount so paid or expended (plus reasonable compensation to the Mortgagee 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 the Mortgagee upon demand. By way of illustration and not in limitation of the foregoing, the Mortgagee may (but need not) 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; complete construction; 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; redeem from any tax sale or forfeiture affecting the Premises; and, if this is a leasehold Mortgage, pay any amount due, or perform any covenant, agreement or other undertaking of the Mortgagor under the Ground Lease. In making any payment or securing any performance relating to any obligation of the Mortgagor hereunder, the Mortgagee shall 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 the Mortgagee shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any matter which constitutes a Default or an Unmatured Event of Default. [Notwithstanding the foregoing, the Mortgagee shall not exercise the rights granted to it

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under this *Section 1.17* unless a Default or an Unmatured Event of Default has occurred and is continuing; provided, however, that the Mortgagee may exercise such rights prior to a Default or an Unmatured Event of Default if any performance or other exercise of the rights granted hereunder are, in the Mortgagee's sole discretion, necessary to preserve the Collateral or the Mortgagee's security interest therein such as (by way of illustration and not of limitation) repairs or measures to prevent immediate and material damage to all or any portion of the Collateral or the renewal or replacement of insurance about to expire thereon, or, if this is a leasehold Mortgage, any action to prevent or cure a default under the Ground lease].

SECTION 1.18 *Subrogation.* To the extent that the Mortgagee, on or after the date hereof, pays any sum under any provision of law or any instrument or document creating any lien or other interest prior or superior to the lien of this Mortgage, or the Mortgagor or any other Person pays any such sum with the proceeds of the loan secured hereby, the Mortgagee shall have and be entitled to a lien or other interest on the Collateral equal in priority to the lien or other interest discharged and the Mortgagee shall be subrogated to, and receive and enjoy all rights and liens possessed, held or enjoyed by, the holder of such lien, which shall remain in existence and benefit the Mortgagee in securing the Liabilities.

SECTION 1.19 *Hazardous Material.* Except as disclosed pursuant to the Loan Agreement, neither the Mortgagor nor any other Person has ever caused or permitted any Hazardous Material (hereinafter defined) to be placed, held, located or disposed of on, under or at the Premises or the Real Estate or any part thereof or any other real property legally or beneficially owned (or any interest or estate in real property which is owned) or operated by the Mortgagor or any of its Subsidiaries (including, without limitation, any property owned by a land trust the beneficial interest in which is owned in whole or in part by the Mortgagor) and no such real property has ever been used (whether by the Mortgagor or by any other Person) as (i) a dump site or permanent storage site for any Hazardous Material, or (ii) a temporary storage site for Hazardous Material except in accordance with the Mortgagor's ordinary business practices and in compliance with applicable laws.

The Mortgagor hereby indemnifies the Mortgagee and agrees to hold the Mortgagee harmless from and against any and all losses, liabilities, damages, injuries, costs, expenses and claims of any and every kind whatsoever paid, incurred or suffered by or asserted against the Mortgagee for, with respect to, or as a direct or indirect result of the presence on or under, or the escape, seepage, leakage, spillage, discharge, emission, discharging or releases from the Premises or the Real Estate or any other real property owned or operated by the Mortgagor of any Hazardous Material (including, without limitation, any losses, liabilities, damages, injuries, costs, expenses or claims asserted or arising under the Comprehensive Environmental Response, Compensation and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state or local statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to or imposing liability or standards on conduct concerning any Hazardous Material), regardless of whether or not caused by, or within the control of, the Mortgagor.

For purposes of this Mortgage, "Hazardous Material" means and includes (i) any asbestos, PCBs or dioxins, or insulation or other material composed of or containing asbestos, PCBs or dioxins, or (ii) any hazardous, toxic or dangerous waste, substance or material defined as such in (or for purposes of) the Comprehensive Environmental Response, Compensation, and Liability Act, any so-called "Superfund" or "Superlien" law, or any other federal, state, local or other statute, law, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, as now or at any time hereafter in effect.

SECTION 1.20 *Reserve for Taxes, Assessments, Insurance and Ground Rents.* Except as

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otherwise provided in the last paragraph of this Section 1.20, the Mortgagor covenants and agrees to pay to the Mortgagee monthly until the Note and all of the other liabilities have been paid in full, in addition to the scheduled payments of principal and interest under the terms of the Note and concurrently therewith monthly until the Note 1/24 is fully paid, the following sums:

(i) a sum equal to taxes and assessments next due upon the Premises (all as estimated by the Mortgagee) and the premiums that will next become due and payable on policies of fire, rental value and other insurance covering the Premises required under the terms of this Mortgage, divided by the number of months to elapse before one month prior to the date when such taxes, assessments and insurance premiums will become due and payable, such sums to be held by the Mortgagee without interest accruing thereon, to pay each of the said items; and

(ii) if this is a leasehold Mortgage, a sum equal to the monthly rental and additional rental, if any, due and payable under the terms of the Ground Lease on the first day of the month next succeeding, such sum to be held by the Mortgagee without interest accruing thereon, to pay said monthly rental and additional rental.

All payments described above in this Section shall be paid by the Mortgagor each month in a single payment to be applied by the Mortgagee to the foregoing items in such order as the Mortgagee shall elect in its sole discretion.

Except as otherwise provided in the last paragraph of this *Section 1.20*, the Mortgagor shall also pay to the Mortgagee, at least 30 days prior to the due date of any taxes, assessments or insurance premiums levied on, against or with respect to the Premises, and prior to the date for payment of any rent or additional rent under the Ground lease, if any, such additional amount as may be necessary to provide the Mortgagee with sufficient funds to pay any such tax, assessment, insurance premiums, rent and additional rent under this *Section 1.20* at least 30 days in advance of the due date thereof. The Mortgagor's failure timely to make any payments required under this *Section 1.20* shall be a Default under this Mortgage.

Except as otherwise provided in the last paragraph of this *Section 1.20*, the Mortgagee shall, within 20 days of receipt from the Mortgagor of a written request therefor together with such supporting documentation as the Mortgagee may reasonably require (including, without limitation, official tax bills or, as applicable, statements for insurance premiums or rent and additional rent), cause proper amounts to be withdrawn from such account and paid directly to the appropriate tax collecting authority, insurer or the lessor or landlord under the Ground Lease. Even though the Mortgagor may have made all appropriate payments to the Mortgagee as required by this Mortgage, the Mortgagor shall nevertheless have full and sole responsibility at all times to cause all taxes, assessments, insurance premiums and rent and additional rent to be fully and timely paid, and the Mortgagee shall have no responsibility or obligation of any kind with respect thereto except with respect to payments required to be made by the Mortgagor hereunder for which the Mortgagee has received funds to cover such payments in full and all statements, invoices, reports or other materials necessary to make such payments, all not less than 30 days prior to the deadline for any such payment. If at any time the funds so held by the Mortgagee shall be insufficient to cover the full amount of all taxes, assessments, insurance premiums, rent and additional rent then accrued (as estimated by the Mortgagee) with respect to the then current twelvemonth period, the Mortgagor shall, within 10 days after receipt of notice thereof from the Mortgagee, deposit with the Mortgagee such additional funds as may be necessary to remove the deficiency. Failure to do so within such 10-day period shall be a Default hereunder and all sums hereby secured shall immediately become due and payable at the option of the Mortgagee. If the Premises are sold under foreclosure or are otherwise acquired by the Mortgagee, accumulations under this Section 1.20 may be applied to the Liabilities in such order of application as the Mortgagee may elect in its sole discretion.

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Anything contained in this *Section 1.20* to the contrary notwithstanding, the Mortgagee hereby (by acceptance of this Mortgage and without the necessity of any written waiver, consent or acknowledgment from the Mortgagor) waives the requirement of all deposits described in this Section 1.20; provided, however, that the Mortgagee shall have the right, in its sole discretion, to rescind such waiver from and after the occurrence of any Default or Unmatured Event of Default hereunder.

ARTICLE II

Default

Each of the following shall constitute a default ("Default") hereunder:

SECTION 2.1 *The Loan Agreement*. The occurrence of an Event of Default or Default under the terms and provisions of the Loan Agreement; or

SECTION 2.2 *Provisions of this Mortgage*. Noncompliance by the Mortgagor with, or failure by the Mortgagor to perform, any agreement contained herein (other than any noncompliance or failure which constitutes a Default under *Sections 2.1* or *2.3*) and continuance of such noncompliance or failure for five days with respect to the payment of any amounts required to be paid under this Mortgage or for 30 days after notice thereof to the Mortgagor from the Mortgagee with respect to all other Defaults under this Mortgage; or

SECTION 2.3 *Default Under Third Party Agreements*. A default by the Mortgagor occurs under the terms of any leases or under any other Third Party Agreements, and any such default continues for more than the applicable period of grace, if any, therein set forth.

ARTICLE III

Default

SECTION 3.1 *Acceleration*. Upon the occurrence of any Default, the entire indebtedness evidenced by the Note and all other liabilities, together with interest thereon at the Default Rate, shall, notwithstanding any provisions of the Note or the Related Documents and without demand or notice of any kind to the Mortgagor or to any other Person, (a) automatically become immediately due and payable in the event of the occurrence of any of the Events of Default described in Section [identify the bankruptcy default provision] of the Loan Agreement and (b) at the option of the Mortgagee, become immediately due and payable in the event of the occurrence of any other Default.

SECTION 3.2 *Remedies Cumulative*. No remedy or right of the Mortgagee hereunder or under the Note or any of the Related Documents, or otherwise, or available under applicable law or in equity, 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 or in equity. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Default shall impair any such remedy or right or be construed to be a waiver of any such Default or an acquiescence therein, nor shall it affect any subsequent 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 the Mortgagee. All obligations of the Mortgagor, and all rights, powers and remedies of the Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in equity or in the Note or any other Related Documents or any other written agreement or instrument relating to any of the liabilities or any security therefor.

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SECTION 3.3 *Possession of Premises; Remedies under Note and Related Documents.* The Mortgagor hereby waives all right to the possession, income and rents of the Premises from and after the occurrence of any Default, and the Mortgagee is hereby expressly authorized and empowered, at and following any such occurrence, to enter into and upon and take possession of the Premises or any part thereof, to complete any construction in progress thereon at the expense of the Mortgagor, 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 the Mortgagee in its sole discretion, to a reduction of such of the Liabilities in such order as the Mortgagee may from time to time elect. The Mortgagee, in addition to the rights provided under the Note and any other Related Documents, is also hereby granted full and complete authority to enter upon the Premises, employ watchmen to protect the Goods and Improvements from depreciation or injury and to preserve and protect the Collateral, and to continue any and all outstanding contracts for the erection and completion 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 the Mortgagor. All such expenditures by the Mortgagee shall be Liabilities hereunder. Upon the occurrence of any Default, the Mortgagee may also exercise any or all rights or remedies under the Note and any other Related Documents.

SECTION 3.4 *Foreclosure; Receiver.* Upon the occurrence of any Default, the Mortgagee shall also have the right immediately to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of the Mortgagee or at any time thereafter, either before or after foreclosure sale, and without notice to the Mortgagor or to any party claiming under the Mortgagor and without regard to the solvency or insolvency at the time of such application of any Person then liable for the payment of any of the Liabilities, without regard to the then value of the Premises or whether the same shall then be occupied, in whole or in part, as a homestead by the owner of the equity of redemption, and without regarding any bond from the complainant in such proceedings, appoint a receiver for the benefit of the Mortgagee, with power to take possession, charge and control of the Premises, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all Rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency, during any period of redemption.

The court may from time to time authorize said receiver to apply the net amounts remaining in its hands, after deducting reasonable compensation for the receiver and its counsel as allowed by the court, in payment (in whole or in part) of any or all of the Liabilities, including, without limitation, the following, in such order of application as the Mortgagee may elect: (i) amounts due under 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, taxes, special assessments, 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 the Mortgagee to cure or attempt to cure any Default or Unmatured Event of Default by the Mortgagor in the performance of any obligation or condition contained in any Related Documents or this Mortgage or otherwise, to protect the security hereof provided herein, or in any Related Documents, with interest on such advances at the Default Rate. The surplus of the proceeds of sale, if any, shall then be paid to the Mortgagor, upon reasonable request. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Premises, as the Mortgagee may elect, until all of the Premises have been foreclosed against and sold. As part of the foreclosure, the Mortgagee in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Premises, and all right, title, interest, claim and demand therein, and the right of redemption thereof, as an entirety, or in separate lots, as Mortgagee 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

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and upon such notice as provided by applicable law. Upon the completion of any such sale or sales, Mortgagee shall transfer and deliver, or cause to be transferred and delivered, to the purchaser or purchasers the property so sold, in the manner and form as provided by applicable law, and Mortgagee is hereby irrevocably appointed the true and lawful attorney-in-fact of Mortgagor, in its name and stead, to make all necessary transfers of property thus sold, and for that purpose Mortgagee may execute and deliver, for and in the name of Mortgagor, all necessary instruments of assignment and transfer, Mortgagor hereby ratifying and confirming all that said attorney-in-fact shall lawfully do by virtue hereof. In the case of any sale of the Premises pursuant to any judgment or decree of any court at public auction or otherwise, Mortgagee may become the purchaser, and for the purpose of making settlement for or payment of the purchase price, shall be entitled to deliver over and use the Note and any claims for the debt in order that there may be credited as paid on the purchase price the amount of the debt. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court, all expenses of every kind paid or incurred by the Mortgagee for the enforcement, protection or collection 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 the Mortgagor.

SECTION 3.5 *Remedies for Leases and Rents.* If any 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, the Mortgagee shall be entitled, in its discretion, to do all or any of the following: (i) 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 the Mortgagor therefrom; (ii) with or without process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of the Mortgagor relating thereto; (iii) as attorney-in-fact or agent of the Mortgagor, 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 thereof, if any, 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 forceable detainer and actions in distress of rent); (iv) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle the Mortgagor to cancel the same; (v) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof, (vi) make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its discretion, may seem appropriate; (vii) insure and reinsure the Collateral for all risks incidental to the Mortgagee's possession, operation and management thereof and (viii) receive all such Rents and proceeds, and perform such other acts in connection with the management and operation of the Collateral, as the Mortgagee in its discretion may deem proper, the Mortgagor hereby granting the Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after any Default without notice to the Mortgagor or any other Person. The Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may determine: (a) to the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to the Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (b) to the payment of taxes, 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 will, in the judgment of

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the Mortgagee, make it readily rentable; and (c) to the payment of any Liabilities. 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 the Mortgagee or a receiver and the collection, receipt and application of the Rents, the Mortgagee shall be entitled to exercise every right provided for in this Mortgage or by law or in equity upon or after the occurrence of a Default. Any of the actions referred to in this Section 3.5 may be taken by the Mortgagee irrespective of whether any notice of Default has been given hereunder and without regard to the adequacy of the security for the indebtedness hereby secured.

SECTION 3.6 *Personal Property.* If any Default shall occur, the Mortgagee may exercise from time to time any rights and remedies available to it under applicable law upon default in payment of indebtedness. The Mortgagor shall, promptly upon request by the Mortgagee, assemble the Collateral and make it available to the Mortgagee at such place or places, reasonably convenient for both the Mortgagee and the Mortgagor, as the Mortgagee shall designate. The Mortgagor hereby expressly waives, to the fullest extent permitted by applicable law, any and all notices, advertisements, hearings, or process of law in connection with the exercise by the Mortgagee of any of its rights and remedies after a Default occurs. If any notification of intended disposition of any of the Collateral is required by law, such notification, if mailed, shall be deemed reasonably and properly given if mailed by registered or certified mail, return receipt requested, at least five (5) business days before such disposition, postage prepaid, addressed to the Mortgagor either at the address shown above or at any other address of the Mortgagor appearing on the records of the Mortgagee. Without limiting the generality of the foregoing, whenever there exists a Default hereunder, the Mortgagee may, with respect to so much of the Collateral as is personal property under applicable law, to the fullest extent permitted by applicable law, without further notice, advertisement, hearing or process of law of any kind: (i) notify any Person obligated on the Collateral to perform directly for the Mortgagee 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 the Mortgagor 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 and render all or any part of the Collateral unusable, all without being responsible for loss or damage; (vi) sell any or all of the Collateral, free of all rights and claims of the Mortgagor therein and thereto, at any lawful public or private sale and (vii) bid for and purchase any or all of the Collateral at any such public or private sale. Any proceeds of any disposition by the Mortgagee of any of the Collateral may be applied by the Mortgagee to the payment of expenses in connection with the Collateral, including attorneys' fees and legal expenses, and any balance of such proceeds shall be applied by the Mortgagee toward the payment of such of the liabilities and in such order of application as the Mortgagee may from time to time elect. Without limiting the foregoing, the Mortgagee may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code or other applicable law as in effect from time to time or otherwise available to it under applicable law. The Mortgagor 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 the Mortgagee of any of its rights and remedies hereunder. The Mortgagor hereby constitutes the Mortgagee its attorney-in-fact with full power of substitution to take possession of the Collateral upon any Default and, as the Mortgagee in its sole discretion deems necessary or proper, to execute and deliver all instruments required by the Mortgagee to accomplish the disposition of the Collateral; this power of attorney is a power coupled with an interest and is irrevocable while any of the Liabilities are outstanding.

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SECTION 3.7 *Performance of Third Party Agreements*. The Mortgagee may, in its sole discretion at any time after the occurrence of a Default (or prior thereto if so provided elsewhere in this Mortgage), notify any Person obligated to the Mortgagor under or with respect to any Third Party Agreements of the existence of a Default, require that performance be made directly to the Mortgagee at the Mortgagor's expense, advance such sums as are necessary or appropriate to satisfy the Mortgagor's obligations thereunder and exercise, on behalf of the Mortgagor, any and all rights of the Mortgagor under the Third Party Agreements (including, without limitation, any options to renew, options to purchase and rights of first refusal under the Ground Lease) as the Mortgagee, in its sole discretion, deems necessary or appropriate; and the Mortgagor agrees to cooperate with the Mortgagee in all ways reasonably requested by the Mortgagee (including the giving of any notices requested by, or joining in any notices given by, the Mortgagee) to accomplish the foregoing.

SECTION 3.8 *No Liability on Mortgagee*. Notwithstanding anything contained herein, the Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of the Mortgagor, whether hereunder, under any of the Third Party Agreements or otherwise, and the Mortgagor shall and does hereby agree to indemnify against and hold the Mortgagee harmless of and from any and all liabilities, losses or damages which the Mortgagee may incur or pay under or with respect to any of the Collateral or under or by reason of its exercise of rights hereunder, with the exception of any exercise of such rights by the Mortgagee in a manner so as to constitute gross negligence or willful misconduct, and any and all claims and demands whatsoever which may be asserted against the Mortgagee 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. The Mortgagee shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other Person. No liability shall be enforced or asserted against the Mortgagee in its exercise of the powers granted to it under this Mortgage, and the Mortgagor expressly waives and releases any such liability. Should the Mortgagee incur any such liability, loss or damage under any of the Third Party Agreements or under or by reason hereof, or in the defense of any claims or demands, the Mortgagor agrees to reimburse the Mortgagee immediately upon demand for the full amount thereof, including costs, expenses and attorneys' fees.

SECTION 3.9 *Prepayment Charge*. If this Mortgage or any obligation secured hereby provides for any charge for prepayment of any indebtedness secured hereby, the Mortgagor agrees to pay said charge if for any reason any of said indebtedness shall be paid prior to the stated maturity date thereof, including, without limitation, any payment resulting from acceleration of the indebtedness secured hereby as the result of a Default, and whether or not said payment is made prior to or at any sale held under or by virtue of this *Article III*.

ARTICLE IV

General

SECTION 4.1 *Remitted Acts*. The Mortgagor agrees that, without affecting or diminishing in any way the liability of the Mortgagor or any other Person (except any Person expressly released in writing by the Mortgagee) for the payment or performance of any of the Liabilities or for the performance of any obligation contained herein or affecting the lien hereof upon the Collateral or any part thereof, the Mortgagee may at any time and from time to time, without notice to or the consent of any Person, release any Person liable for the payment or performance of the Note or any of the other Liabilities or any guaranty given in connection therewith; extend the time for, or agree to alter the terms of payment of, any indebtedness under the Note or any of the other Liabilities or

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any guaranty given in connection therewith; modify or waive any obligation; subordinate, modify or otherwise deal with the lien hereof, accept additional security of any kind for repayment of the Note or the other Liabilities or any guaranty given in connection therewith; release any Collateral or other property securing any or all of the Note or the other liabilities or any guaranty given in connection therewith; 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 the Mortgagee may have.

SECTION 4.2 *Legal Expenses.* The Mortgagor agrees to indemnify the Mortgagee from all loss, damage and expense, including (without limitation) attorneys' fees, incurred in connection with any suit or proceeding in or to which the Mortgagee may be made or become a party for the purpose of protecting the lien or priority of this Mortgage.

SECTION 4.3 *Related Documents.* The Mortgagor covenants that it will timely and fully perform and satisfy all the terms, covenants and conditions of any and all Related Documents. If there shall be any inconsistency between the provisions of this Mortgage and the Loan Agreement, the terms and provisions of this Mortgage shall prevail.

SECTION 4.4 *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. For purposes of the foregoing, the Mortgagor is the debtor (with its address as set forth above), the Mortgagee is the secured party (with its address as set forth above) and, if this is a leasehold Mortgage, the name of the record owner of the Premises is the lessor or landlord named on Exhibit A hereto. If any item of Collateral hereunder also constitutes collateral granted to the Mortgagee under any other mortgage, agreement, document, or instrument, in the event of any conflict between the provisions of this Mortgage and the provisions of such other mortgage, agreement, document, or instrument relating to the Collateral, the provision or provisions selected by the Mortgage shall control with respect to the Collateral.

SECTION 4.5 *Defeasance.* Upon full payment of all indebtedness secured hereby and satisfaction of all the Liabilities in accordance with their respective terms and at the time and in the manner provided, and when the Mortgagee has no further obligation to make any advance, or extend any credit hereunder, under the Note or any Related Documents, this conveyance shall be null and void, and thereafter, upon demand therefor, an appropriate instrument of reconveyance or release shall promptly be made by the Mortgagee to the Mortgagor, at the expense of the Mortgagor.

SECTION 4.6 *Notices.* Each notice, demand or other communication in connection with this Mortgage shall be in writing. Notices forwarded by mail shall be deemed to have been given three days after the date sent if sent by registered or certified mail, postage paid, and:

(i) *if to the Mortgagor*, addressed to it at its address shown above;

(ii) *if to the Mortgagee*, addressed to it at the address shown above; or

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in the case of either party, at such other address as such party may, by written notice received by the other party to this Mortgage, have designated as its address for notices. Notices given by telegram or telex shall be deemed to have been given when sent if addressed to the party to whom sent at its address as aforesaid.

SECTION 4.7 *Successors; The Mortgagor; Gender.* All provisions hereof shall bind the Mortgagor and the Mortgagee and their respective successors, vendees and assigns and shall inure to the benefit of the Mortgagee, its successors and assigns, and the Mortgagor and its permitted successors and assigns. The Mortgagor shall not have any right to assign any of its rights hereunder. Except as limited by the preceding sentence, the word "Mortgagor" shall include all Persons claiming under or through the Mortgagor and all Persons liable for the payment or performance by the Mortgagor of any of the Liabilities, whether or not such Persons shall have executed the Note or this Mortgage. Wherever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

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

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

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

SECTION 4.11 *Governing Law, Submission to jurisdiction.* This Mortgage, together with the Note and the Related Documents, shall be a contract made under and governed by the internal laws of the state of Illinois applicable to contracts made and to be performed within the state of Illinois; provided, however, that the foreclosure or power of sale procedures set forth herein shall be governed by the laws of the state where the Premises are located. 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. Except as provided herein with respect to foreclosure or power of sale procedures, the Mortgagee may enforce any claim arising out of this Mortgage, the Note or the other Related Documents in any state or federal court having subject matter jurisdiction and located in Chicago, Illinois. Nothing

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herein contained shall affect the right of the Mortgagee to serve process in any other manner permitted by law or preclude the Mortgagee from bringing an action or proceeding in respect hereof in any other country, state or place having jurisdiction over such action. The Mortgagor irrevocably waives, to the fullest extent permitted by law, any objection which it may have or hereafter have to the laying of the venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding brought in such a court has been brought in an inconvenient forum.

SECTION 4.12 *Waiver*. The Mortgagor, on behalf of itself and all parties now or hereafter interested in the Premises or the Collateral, voluntarily and knowingly hereby acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in the Illinois Mortgage Foreclosure Law, ILL. COMP. STAT. ch. 110, Section 15-1101 *et seq.*, herein, the Act"), or residential real estate (as defined in the Act); waives to the fullest extent permitted by applicable law any and all rights to reinstatement or redemption and any and all other rights under all present and future appraisement, homestead, moratorium, valuation, exemption, stay, extension, and redemption statutes, laws or equities now or hereafter existing, and hereby further waives the pleading of any statute of limitations as a defense to any and all Liabilities secured by this Mortgage, and the Mortgagor agrees that no defense, claim or right based on any thereof will be asserted or may be enforced, in any action enforcing or relating to this Mortgage or any of the Collateral. Without limiting the generality of the preceding sentence, the Mortgagor, on its own behalf and on behalf of each and every party acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, hereby irrevocably waives any and all rights of reinstatement or redemption from sale under any order, judgment or decree of foreclosure of this Mortgage or under any power contained herein or under any sale pursuant to any statute, order, judgment or decree of foreclosure of any court.

SECTION 4.13 *JURY TRIAL*. THE MORTGAGOR HEREBY EXPRESSLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING OR TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS MORTGAGE OR ANY RELATED DOCUMENTS TO WHICH IT IS A PARTY, OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION HERewith OR THEREwith OR ARISING FROM ANY RELATIONSHIP EXISTING IN CONNECTION WITH THIS MORTGAGE OR ANY RELATED DOCUMENT, AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

SECTION 4.14 *No Merger*. It being the desire and intention of the parties hereto that this Mortgage and the hen hereof do not merge in fee simple title to the Premises, it is hereby understood and agreed that should the Mortgagee acquire any additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the hen 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. If this is a leasehold Mortgage, the Mortgagor further agrees that so long as any of the indebtedness secured by this Mortgage shall remain unpaid, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, the fee title and the leasehold estate in the Premises shall not merge but shall always be kept separate and distinct, notwithstanding the union of said estates either in the lessor or in the lessee, or in a third party, by purchase or otherwise; and the Mortgagor further covenants and agrees that, in case it shall acquire the fee title, or any other estate, title or interest in the Premises, this Mortgage shall attach to and cover and be a first hen upon such fee title or other estate so acquired, and such fee title or other estate so acquired by the Mortgagor shall be considered as mortgaged, assigned or conveyed to the

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Mortgagee and the hen hereof spread to cover such estate with the same force and effect as though specifically herein mortgaged, assigned or conveyed and spread. The provisions of this paragraph shall not apply in the event the holder of the Note secured hereby acquires the fee of the Premises except if the Mortgagee shall so elect.

SECTION 4.15 *Mortgagee Not a Joint Venturer or Partner.* The Mortgagor and the Mortgagee acknowledge and agree that in no event shall the Mortgagee be deemed to be a partner or joint venturer with the Mortgagor. Without limitation of the foregoing, the Mortgagee 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 liabilities secured hereby, or otherwise.

SECTION 4.16 *Time of Essence.* Time is declared to be of the essence in this Mortgage, the Note and the Related Documents and of every part hereof and thereof.

SECTION 4.17 *No Third Party Benefits.* This Mortgage, the Note and the other Related Agreements are made for sole benefit of the Mortgagor and the Mortgagee and, subject to the provisions of Section 4.1, their successors and assigns, and no other party shall have any legal interest of any kind under or by reason of any of the foregoing. Whether or not the Mortgagee elects to employ any or all the rights, powers or remedies available to it under any of the foregoing, the Mortgagee shall have no obligation or liability of any kind to any third party by reason of any of the foregoing or any of the Mortgagee's actions or omissions pursuant thereto or otherwise in connection with this transaction.

SECTION 4.18 *Future Advances.* This Mortgage is granted to secure future advances and loans from the Mortgagee to or for the benefit of the Mortgagor (or its successors and assigns) or the Premises as provided in the Loan Agreement, regardless of whether, at the time or times of such advances, the Mortgagor is then the owner of the Collateral or any interest in any hereof, and costs and expenses of enforcing the Mortgagor's obligations under the Mortgage, the Related Documents and the Loan Agreement. [All advances, disbursements or other payments required by the Loan Agreement shag, to the fullest extent permitted by law, have priority over any and all mechanics' liens and other hens and encumbrances arising after this Mortgage is recorded.]

SECTION 4.19 *Compliance with Illinois Mortgage Foreclosure Law.*

(a) If any provision of this Mortgage is inconsistent with any applicable provision of the Illinois Mortgage Foreclosure Law, ILL. COMP. STAT. ch. 100, Sec. 15-1109¹ *et seq.* (herein called the "Act"), the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act.

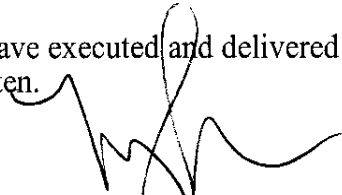
(b) Without in any way limiting or restricting any of the Mortgagee's rights, remedies, powers and authorities under this Mortgage, and in addition to all of such rights, remedies, powers, and authorities, the Mortgagee shall also have, and may exercise, any and all rights, remedies, powers and authorities which the holder of a mortgage is permitted to have or exercise under the provisions of the Act, as the same maybe amended from time to time. If any provision of this Mortgage shall grant to the Mortgagee any rights, remedies, powers or authorities upon default of the Mortgagor which are more limited than the rights that would otherwise be vested in Mortgagee under the Act in the absence of said provision, Mortgagee shall be vested with all of the rights,, remedies, powers and authorities granted in the Act to the fullest extent permitted by law.

(c) Without limiting the generality of the foregoing, all expenses incurred by Mortgagee to

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the extent reimbursable under Sections 15-1510, 15-1512, or any other provision of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in any other provision of this Mortgage, shall be added to the indebtedness secured by this Mortgage and by the judgment of foreclosure.

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



MARY ALICE CURRAN

ACCEPTED:



JENNIFER AUBREY

Property of Cook County Clerk's Office

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STATE OF ILLINOIS)
) SS
COUNTY OF)

I, Abigail Hart, a Notary Public, do hereby certify that MARY ALICE CURRAN, personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day, in person and acknowledged that she signed and delivered the said document as her free and voluntary act, and for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 17 day of February, 2003.

Abigail Hart
Notary Public

My commission expires:



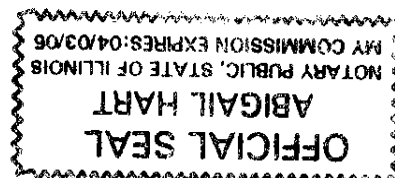
STATE OF ILLINOIS)
) SS
COUNTY OF)

I, Abigail Hart, a Notary Public, do hereby certify that JENNIFER AUBREY, personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day, in person and acknowledged that she signed and delivered the said document as her free and voluntary act, and for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 17 day of February, 2003.

Abigail Hart
Notary Public

My commission expires:

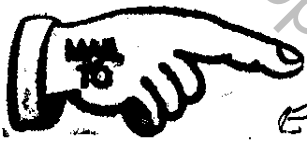


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EXHIBIT A

Description of the Land

Lot 6 (except the West 15 feet thereof) in Block 2 in Keeney's Addition to Rogers Park, a Subdivision of part of the North West 1/4 of Section 31, Township 41 North, Range 14, East of the Third Principal Meridian, in Cook County, Illinois.



EDWARD B. CHEZ
141 W. JACKSON BLVD
SUITE 2900
CHICAGO, ILL. 60606

Property of Cook County Clerk's Office