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THIS INSTRUMENT PREPARED BY
AND WHEN RECORDED RETURN TO:

Mayer, Brown, Rowe & Maw
190 South LaSalle Street
Chicago, Illinois 60603
Attention: Jack Edelbrock, Esq.

Doc#: 0329439190
Eugene "Gene" Moore Fee: \$86.00
Cook County Recorder of Deeds
Date: 10/21/2003 04:17 PM Pg: 1 of 32

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

Date: October 1, 2003

Borrower: 1350 ASTOR COOPERATIVE APARTMENTS, INC., a
corporation organized and existing under the laws of
the State of Illinois.

Address: 1350 North Astor Street
Chicago, Illinois

Bank: THE NORTHERN TRUST COMPANY, an Illinois banking
corporation

Address: 50 South LaSalle Street
Chicago, Illinois 60675

Mortgage Amount: NINE HUNDRED THOUSAND (\$900,000.00) DOLLARS

Location of
Premises: 1350 North Astor Street
Chicago, Illinois

5009637.4 093003 1439C 03179951

Return to
Box 407
JACK EDEL BROCK

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THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING STATEMENT (this "Mortgage") made as of the 15 day of October, 2003, by 1350 ASTOR COOPERATIVE APARTMENTS, INC., an Illinois corporation ("Borrower"), having its principal office and place of business located at 1350 North Astor Street, Chicago, Illinois. for the benefit of THE NORTHERN TRUST COMPANY, an Illinois banking corporation ("Bank"), having an office at 50 South LaSalle Street, Chicago, Illinois.

RECITAL

The Borrower is the owner of the premises described in Schedule A annexed hereto. The Borrower has borrowed the Mortgage Amount, as evidenced by the Note (as hereinafter defined), obligating the Borrower to pay the Mortgage Amount together with all interest accrued thereon, in accordance with the terms of the Note.

CERTAIN DEFINITIONS

The following terms shall have the meanings herein specified:

"Chattels" means all fixtures, fittings, appliances, apparatus, equipment, machinery, building materials, inventory and articles of personal property and replacements thereof, other than those owned or rented by service vendors or by lessees (including tenant-shareholders under proprietary leases) which may be removed by such lessee at the expiration of such Lease, now or at any time hereafter affixed to, attached to, placed upon, or used in any way in connection with the use, enjoyment, occupancy or operation of the Premises (as hereinafter defined) or the Improvements (as hereinafter defined), together with all proceeds realized from the sale, transfer or conversion of any of the above.

"Default Rate" means the rate specified in the Note as the Default Rate, but in no event higher than the maximum rate allowed by applicable law.

"Environmental Law" means any and all present and future Laws (as hereinafter defined) relating to health, the environment, any Hazardous Materials (as hereinafter defined) or any use, storage, release, threatened release, emission, discharge, generation, processing, abatement, removal, treatment, transportation, manufacture, refinement, handling, production, disposal or disposition of any Hazardous Materials from, under, into or on the Mortgaged Property or any handling, transportation or treatment of Hazardous Materials relating to the Mortgaged Property, including, but not limited to, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. Sections 9601, et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. Section 6901, et seq.), the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801, et seq.), the Clean Air Act, as amended (42 U.S.C. Sections 7401, et seq.), the Clean Water Act, as amended (33 U.S.C. Sections 1251, et seq.), the Toxic Substances Control Act, as amended (15 U.S.C. Sections 2601 et seq.), the Safe Drinking Water Act, as amended (42 U.S.C. Sections 300(f) et seq.), the Atomic Energy Act, as amended (42 U.S.C. Sections 2011 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act, as amended (7 U.S.C. Sections 136 et seq.), the Occupational Safety and Health Act, as amended (29 U.S.C. Sections 651 et seq.), and the regulations adopted and publications promulgated pursuant thereto.

"Events of Default" means the events and circumstances described as such in Section 2.01 hereof.

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"Hazardous Materials" means any substance, material or waste which is regulated by any federal, state or local governmental or quasi-governmental authority, and includes, without being limited to, (a) any substance, material or waste defined, used or listed as a "hazardous waste", "extremely hazardous waste", "restricted hazardous waste", "hazardous substance", "hazardous material", "toxic substance" or other similar or related terms as defined, used or listed in any Environmental Law, (b) any petroleum products, asbestos, polychlorinated biphenyls, flammable explosives or radioactive materials, (c) any additional substances or materials which are now or hereafter hazardous or toxic substances under any Environmental Law relating to the Premises and (d) as of any date of determination, any additional substances or materials which are hereafter incorporated in or added to the definition of "hazardous substance" for purposes of any Environmental Law.

"Improvements" means all improvements, structures or buildings, and replacements and alterations thereof, to be erected or now or hereafter located upon the Premises including all plant equipment, apparatus, machinery and fixtures of every kind and nature whatsoever forming part of said improvements, structures or buildings.

"Laws" means any and all present and future federal, state or local laws, statutes, codes, ordinances, rules, regulations, permits, consents, approvals, licenses, judgments, orders, writs, decrees, policies, injunctions or other restrictions or requirements of any governmental authority, court or tribunal applicable or related in any way to, or having jurisdiction over, the Borrower or the Mortgaged Property or the use and occupation thereof.

"Loan Documents" means the Note, this Mortgage and all other documents further evidencing and/or securing the loan evidenced by the Note, together with all modifications, extensions, renewals or amendments thereto.

"Mortgage" means this mortgage instrument, as same may hereafter be modified, amended, supplemented, consolidated, extended, renewed and/or spread from time to time.

"Mortgage Amount" NINE HUNDRED THOUSAND (\$900,000.00) DOLLARS or such lesser amount as may be disbursed to or at the direction of Borrower.

"Mortgaged Property" means the property specified as such in the Granting Clause of this Mortgage.

"Note" means that certain Term Note in the principal amount of \$900,000.00 of even date herewith made by the Borrower to the order of the Bank, together with all modifications, extensions, restatements and amendments thereto.

"Premises" means the real property described in Schedule A hereto, including all of the easements, rights, privileges and appurtenances thereunto belonging or in any way appertaining, and all of the estate, right, title, interest, claim or demand whatsoever of the Borrower therein and in and to the strips and gores, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers adjacent thereto, either at law or in equity, in possession or expectancy, now or hereafter acquired.

Unless the context clearly indicates a contrary intent or unless otherwise specifically provided herein, words used in this Mortgage shall be used interchangeably in singular or plural form and the word "Borrower" shall mean "each Borrower and/or any subsequent owner or owners of the Mortgaged Property or any part thereof or interest

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therein," the word "Bank" shall mean "Bank or any subsequent holder of the Note," the word "Note" shall mean "the Note or any other evidence of indebtedness secured by this Mortgage," the word "person" shall include an individual, corporation, partnership, trust, unincorporated association, government, governmental authority, or other entity, the words "Mortgaged Property" shall include any portion of the Mortgaged Property or interest therein, and the terms "include", "including" and similar terms shall be construed as if followed by the phrase "without being limited to". Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. All terms of this Mortgage which are not defined above have the meaning set forth in this Mortgage.

GRANTING CLAUSE

NOW, THEREFORE, the Borrower, in order to secure the payment of the Mortgage Amount and the interest and any other sums payable on the Note, this Mortgage and the Loan Documents, and to secure the performance and observance of all the provisions hereof and of the Note and the Loan Documents including, without limitation, the payment of all sums under the Note, and any further sums advanced by the Bank pursuant to this Mortgage to the extent the aggregate of such sums expended pursuant hereto exceed the sum of the Mortgage Amount (collectively, the "Obligations"), hereby gives, grants, bargains, sells, warrants, alienates, demises, releases, conveys, assigns, transfers, mortgages, hypothecates, deposits, pledges, sets over and confirms unto the Bank, with mortgage covenants, all its estate, right, title and interest in, to and under any and all of the following described property (the "Mortgaged Property") whether now owned or held or hereafter acquired:

- (i) the Premises;
- (ii) the Improvements;
- (iii) the Chattels;
- (iv) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards and any unearned premiums accrued, accruing or to accrue under any and all insurance policies now or hereafter obtained by the Borrower and real estate tax and assessment refunds and credits at any time accruing to the benefit of the Borrower or the Mortgaged Property, even if relating to taxes and assessments payable for a period or periods prior to the date hereof;
- (v) all leases of the Improvements or any part thereof (including, but not limited to, proprietary leases between Borrower and its tenant-shareholders and any leases for commercial space in the Improvements) now or hereafter entered into and all right, title and interest of the Borrower thereunder, subleases, lettings and licenses of or affecting the Mortgaged Property that heretofore have been, or may hereafter be, entered into by Borrower (collectively, "Leases") and (i) all amendments, extensions, modifications, replacements or renewals thereof, (ii) the rents, income, issues and profits due, or to become due, thereunder and all rents, income, issues and profits (including all oil and gas or other mineral royalties and bonuses)

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from the use, enjoyment and occupancy of the Mortgaged Property (collectively, "Rents"), and (iii) the right to enforce, whether at law or in equity or by any other means, all provisions thereof, including, without limitation, any guarantees of the obligations owed Borrower thereunder; and including, without limitation, the Borrower's right, if any, to cash or securities deposited thereunder whether or not same was deposited to secure performance by the lessees of their obligations thereunder, including, further, the right upon the happening of an Event of Default, to receive and collect the Rents and other charges (including all impositions, assessments, occupancy charges, maintenance charges, and other fees and charges payable by a tenant-shareholder of Borrower under a proprietary lease) thereunder, all of which Leases are assigned to the Bank, and further including all right, title and interest of the Borrower in those corporate shares of Borrower to its tenant-shareholders. The foregoing assignment of Leases and Rents is intended to be and is an absolute, present assignment from Borrower to Bank and not the mere passage of a security interest; provided, however, that prior to the occurrences of an Event of Default hereunder Borrower shall have a license, and is hereby granted a license (the "License"), to collect and disburse the Rents accruing by virtue of such Leases, as such Rents accruing by virtue of such Leases as the same become due, but not more than one month in advance and to enforce the agreements of the Leases, so long as there is no default under any of the terms, covenants or provisions of the Obligations, the Note or this Mortgage. Borrower covenants and agrees, however, that in exercising its License it shall hold any and all such Rents in trust and shall apply the same in payment of its obligations to the Lender.

(vi) any monies deposited by Borrower into one or more Bank accounts, and any investments made by Borrower for the reserve fund or otherwise for the benefit of Borrower;

(vii) all utility or municipal deposits made by or on behalf of Borrower or made in connection with the Premises;

(viii) all plans, drawings, specifications, site plans, sketches, samples, contracts and agreements, however characterized from time to time prepared for use in connection with the construction, repair or renovation of the Improvements;

(ix) all contracts, agreements and understandings now or hereafter entered into, relating to or involving the performance of any work, rendering of any services, and supply of any materials or the conduct of operations in and the management of the Premises including, without limitation, construction contracts, architect agreements, management agreements, options and other agreements, however characterized, affecting the Premises and/or the Improvements;

(x) any and all permits, certificates, approvals and authorizations, however characterized, issued or in any way furnished whether necessary or not, for the operation and use of the Premises and/or the Improvements and/or Chattels, including, without limitation, building permits, environmental certificates, certificates of operation, warranties and guarantees; and

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

TO HAVE AND TO HOLD unto the Bank, its successors and assigns forever.

ARTICLE I

PARTICULAR COVENANTS, WARRANTIES AND REPRESENTATIONS OF THE BORROWER

The Borrower covenants, warrants, represents and agrees as follows:

Section 1.01 **Title to Mortgaged Property.** (a) The Borrower warrants that (1) it has a good and marketable title to an indefeasible fee estate in the Premises, owns the Mortgaged Property, including without limitation the lessor's interest in the Leases, subject in all cases to no lien, charge or encumbrance except such as are listed as exceptions to title in the title policy insuring the lien of this Mortgage, or, if no title policy has been obtained, in the "tract book search" obtained by the Bank (the "existing liens") (2) this Mortgage is and will remain a valid and enforceable first lien on the Mortgaged Property subject only to the existing liens, and (3) the Borrower has full power and lawful authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done. The Borrower will preserve such title, and will forever warrant and defend the security of this Mortgage and the validity and priority of the lien hereof against the claims of all persons and parties whomsoever.

(b) Borrower will not, without the prior written consent of Bank, (i) initiate or support any zoning reclassification of the Premises or use or permit the use of the Premises in a manner which would result in such use becoming a nonconforming use under applicable zoning ordinances, (ii) impose or consent to the imposition of any restrictive covenants or encumbrances upon the Premises, (iii) execute, file or consent to any subdivision plat affecting the Premises or consent to the annexation of the Premises to any municipality, (iv) combine the tax lot or lots comprising the Premises with any tax lot or lots or any portion thereof which is not subject to the lien of this Mortgage or (v) permit or suffer the Premises to be used by the public or any person in such manner as might make possible a claim of adverse usage or possession or of any implied dedication or easement.

Section 1.02 **Further Assurances.** The Borrower will, at the cost of the Borrower, and without expense to the Bank, promptly correct any defect or error which may be discovered in any of the Loan Documents and shall do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as the Bank shall from time to time reasonably require, for the better assuring, conveying, assigning, transferring and confirming unto the Bank the property and rights hereby conveyed, mortgaged or assigned or intended now or

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hereafter so to be, or which the Borrower may be or may hereafter become bound to convey, mortgage or assign to the Bank, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, and for filing, registering or recording this Mortgage and, on demand, will execute and deliver, and hereby authorizes the Bank to execute in the name of the Borrower to the extent it may lawfully do so, in the event of the failure or refusal of the Borrower so to do, one or more financing statements, chattel mortgages or comparable security instruments, and renewals thereof to evidence more effectively the lien hereof upon the Chattels.

Section 1.03 Recording Fees. (a) Upon the execution and delivery of this Mortgage, and thereafter from time to time, Borrower shall cause this Mortgage and any security instrument creating a lien or evidencing the lien hereof upon the Chattels, and each instrument of further assurance, to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the interest of the Bank in, the Mortgaged Property. The Borrower will pay all filing, registration and recording fees, and all expenses, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution, delivery and/or recording of any of the foregoing.

(b) If a mortgage recording tax is imposed on this Mortgage or any amendment to this Mortgage at any time, Borrower shall pay such tax. If applicable law prohibits the Borrower from making such payments, Bank may, at its election, declare all sums outstanding under the Note or under this Mortgage immediately due and payable. Bank and/or its assigns shall have no obligation to either participate in any dispute of said tax or to make any payment with respect thereto and the Borrower agrees to indemnify Bank and its assigns and hold them harmless from any liability with respect thereto and to reimburse or pay upon demand for the same by Bank and/or its assigns their reasonable costs and expenses (including, but without limitation, reasonable attorneys' fees and disbursements) incurred with respect thereto or in connection therewith.

Section 1.04 Payment of Indebtedness. The Borrower will punctually pay the principal and interest and all other sums to become due in respect of the Note at the time and place and in the manner specified in the Note, according to the true intent and meaning thereof and without offset or counterclaim, all in any coin or currency of the United States of America which at the time of such payment shall be legal tender for the payment of public and private debts.

Section 1.05 Good Standing of Borrower. The Borrower is and will at all times remain a duly organized and validly existing Illinois corporation in good standing under the laws of the State of Illinois with full power and authority to execute and deliver the Loan Documents and consummate the transactions contemplated hereby. The Borrower will not (i) consolidate or merge the Borrower into or with any corporation, partnership or other entity, effect any voluntary liquidation or reorganization, or effect any change in its capital structure, or (ii) amend its articles of incorporation or its bylaws in any manner which may have an adverse affect on either the value of the Mortgaged Property or the ability of Borrower to perform its obligations under the Loan Documents.

Section 1.06 Insurance. (a) The Borrower will at its expense, provide or cause to be provided in force such insurance and increased policy limits with respect to the Mortgaged Property as may be reasonably required from time to time by Bank.

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(b) Each policy of insurance maintained by the Borrower pursuant to the terms hereof shall (i) name the Bank (together with its successors and assigns as their interests may appear) as an additional insured, as its interest may appear with respect to liability insurance coverage; (ii) contain the standard non-contributory Bank clause endorsement in favor of the Bank with respect to hazard insurance coverage; (iii) except in the case of public liability insurance and workers' compensation insurance, name the Bank as loss payee and provide that all insurance proceeds for losses be adjusted and be payable in accordance with subsection 1.06(f) hereof; (iv) include effective waivers (whether under the terms of any such policy or otherwise) by the insurer of all claims for insurance premiums against all loss payees and additional named insureds other than the Borrower (provided that the Bank shall have the right to pay premiums and continue any insurance upon the insolvency of the Borrower or the foreclosure or other transfer of the Mortgaged Property) and all rights of subrogation against any such additional named insured; (v) except in the case of public liability insurance and workers' compensation insurance, provide that any losses shall be payable notwithstanding (A) any act, failure to act, negligence of, or violation or breach of warranties, declarations or conditions contained in such policy by the Borrower or the Bank or any other such additional named insured or loss payee, (B) any foreclosure or other proceeding or notice of sale relating to the insured properties or (C) any change in the title to or ownership or possession of the insured properties; (vi) provide that if all or any part of such policy is canceled, terminated or expires, the insurer will forthwith give notice thereof to each such additional named insured and loss payee and that no cancellation, termination, expiration or reduction in amount or material change in coverage thereof shall be effective until at least thirty (30) days (or in the case of nonpayment of insurance premiums, ten (10) days) after receipt by each such additional named insured and loss payee of written notice thereof; (vii) not be subject to a deductible in excess of amounts as shall be satisfactory to Bank; and (viii) be nonassessable and contain such expiration dates as the Bank may reasonably require.

(c) The Borrower shall pay or cause to be paid as and when the same become due and payable the premiums for all insurance policies that the Borrower is required to maintain hereunder (collectively, the "Insurance Premiums"). The Borrower will deliver to the Bank concurrently herewith insurance certificates setting forth in reasonable detail the terms of all insurance policies that the Borrower is required to maintain hereunder, together with true and complete copies of such policies. The Borrower will deliver to the Bank, concurrently with each change in or renewal of any such insurance policy, a certificate with respect to such changed insurance policy certified by the insurance broker that procured or placed such policies, in the same form and containing the same information as the certificates required to be delivered by the Borrower pursuant to the first sentence of this subparagraph and a certificate of the Borrower certifying that all of the insurance policies maintained by the Borrower pursuant hereto comply in all respects with the requirements of this Mortgage, that all premiums then due thereon have been paid to the applicable insurers and that the same are in full force and effect.

(d) Not later than twenty (20) days prior to the expiration, termination or cancellation of any insurance policy which the Borrower is required to maintain hereunder, the Borrower shall obtain a replacement policy or policies (or a binding commitment for such replacement policy or policies), which shall be effective no later than the date of the expiration, termination or cancellation of the previous policy, and shall deliver to the Bank a certificate and a true and complete copy of such policy or policies which comply with the requirements of this Section 1.06 or a copy of the binding commitment for such policy or policies. The Borrower shall also provide to the Bank originals of such policies or copies thereof certified by the insurance companies issuing them as soon as reasonably possible after the Bank's request therefor.

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(e) All insurers shall be authorized to issue insurance in the State of Illinois and all insurers and reinsurers shall have the A.M. Best rating of "A-V" or better.

(f) In the event of any loss, Borrower shall give immediate written notice thereof to the insurance carrier and to Bank. Borrower hereby authorizes and empowers Bank as attorney-in-fact for Borrower to make proof of loss, to adjust and compromise any claim under insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, and to deduct therefrom Bank's expenses incurred in the collection of such proceeds; provided, however, that nothing contained in this subsection 1.06 (f) shall require Bank to incur any expense or take any action hereunder. Any moneys received as payment for any loss under any insurance policies maintained by Borrower pursuant to Section 1.06 hereof shall be paid to the Bank to be applied (x) in the event that restoration of the Improvements (the "Restoration"), in the reasonable judgment of Bank, may not be completed prior to the maturity date of the Note or the cost of such Restoration, in the reasonable judgment of Bank, is in excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars, at Bank's election, to the prepayment of the Note, without premium, or to the reimbursement of Borrower for costs and expenses incurred by it in the Restoration in accordance with the terms and provisions set forth in clauses (i) through (viii) of this paragraph 1.06 (f) or (y) if the Restoration, in the reasonable judgment of Bank, may be completed prior to such maturity date of the Note and the cost of such Restoration, in the reasonable judgment of Bank, is not in excess of Two Hundred Fifty Thousand (\$250,000.00) Dollars, to the reimbursement of the Borrower for costs and/or expenses incurred by it in the Restoration, in accordance with the terms and provisions below, provided that the Borrower:

(i) delivers to the Bank an opinion of an architect designated by Borrower and reasonably satisfactory to the Bank (the "Supervising Architect"), together with such other documentation as the Bank may reasonably request, evidencing to the satisfaction of the Bank that the Restoration of the Mortgaged Property may be completed so as to constitute an architecturally whole and economically feasible residential apartment building at least equal in value and condition to the Mortgaged Property immediately prior to the casualty;

(ii) no Event of Default has occurred hereunder and no default has otherwise occurred under the terms of this Mortgage, the Note, or any other Loan Documents which remains uncured beyond the applicable notice and/or grace period;

(iii) in the event the insurance proceeds are not sufficient in Bank's reasonable opinion to pay in full the Restoration, deposits with the Bank sufficient funds, if necessary in the reasonable opinion of the Bank, such that together with the available insurance (collectively, the "Proceeds"), sufficient funds shall be readily available for the Restoration of the Mortgaged Property as nearly as practicable to its value and condition immediately prior to such casualty;

(iv) delivers to the Bank complete final plans and specifications (the "Work Plans and Specs") for the work to be performed in connection with the Restoration (hereinafter referred to as the "Work") prepared and sealed by an architect reasonably satisfactory to the Bank with evidence satisfactory to the

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Bank of the approval of the Work Plans and Specs by all governmental authorities whose approval is required;

(v) delivers to the Bank, in the event that the Work Plans and Specs are prepared by an architect other than the Supervising Architect, written approval of the Work Plans and Specs by the Supervising Architect;

(vi) delivers to the Bank a signed estimate approved in writing by the Supervising Architect, bearing the Supervising Architect's seal, stating the entire cost of completing the Work;

(vii) delivers to the Bank true copies certified by Borrower, or by the Supervising Architect or Borrower's general contractor or, if available, the governmental agency having jurisdiction thereof, of all permits and approvals required by law in connection with the commencement and conduct of the Work; and

(viii) delivers to the Bank evidence satisfactory to the Bank that Leases affecting not less than ninety (90%) percent of the rentable square footage at the Improvements remain in full force and effect.

If the Proceeds are made available for the Restoration of the Mortgaged Property pursuant to the terms hereof, the cost, if any to the Bank of recovering or paying out such Proceeds (including reasonable attorneys' fees and disbursements and reasonable costs incurred by the Bank in having the Work inspected and the Work Plans and Specs reviewed by the Supervising Architect) shall be promptly paid to the Bank on demand. In the event that the terms and conditions of this subsection 1.06 (f) have been satisfied in full, then the Proceeds (net of any reimbursable expenses to the Bank in accordance with the preceding sentence) shall be disbursed by the Bank as the Work progresses in accordance with customary construction loan advance procedures.

(g) Upon the occurrence of an Event of Default under this Mortgage, or upon the failure by the Borrower promptly to commence or diligently to continue the Work, the Bank may apply all or any portion of the Proceeds to the payment of the Note or to the cure of any default under this Mortgage or the Note.

(h) If at any time the Proceeds which are to be applied to the Restoration of the Mortgaged Property will be insufficient, in the reasonable judgment of the Bank, to pay the entire unpaid cost of the Restoration, the Borrower shall pay the deficiency, or make provision satisfactory to the Bank for the payment thereof, prior to receiving any part of the Proceeds. Any balance of such Proceeds not required for the Restoration, upon completion of the Work and the reimbursement of the Borrower in full for the payment of the Work, shall be returned to the Borrower, provided that if on the date that such Restoration is completed the fair market value of the Mortgaged Property (as determined by an appraiser reasonably satisfactory to the Borrower and the Bank) is less than the appraised value on the date of this Mortgage, then any balance of such Proceeds may be retained by the Bank and applied first to the payment of outstanding interest under the Note and then to the unpaid principal balance of the Note.

(i) The Borrower shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 1.06 unless the Bank has approved the insurance company and the form and

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content of the insurance policy, including, without limitation, the naming thereon of the Bank as an additional insured with loss payable to the Bank under a standard mortgage endorsement of the character above described. The Borrower shall immediately notify the Bank whenever any such separate insurance is taken out and shall promptly deliver to the Bank the policy or policies or certificates of such insurance.

Section 1.07 Impositions. (a) The Borrower, from time to time when the same shall become due and payable, but without the benefit of any grace period therefor whether or not a penalty or interest charge would be imposed in such grace period, will pay and discharge all taxes of every kind and nature (including real estate taxes and personal property taxes and income, franchise, withholding, profits and gross receipts taxes), all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents and charges, and all other public charges whether of a like or different nature, imposed upon or assessed against it or the Mortgaged Property or any part thereof or upon the revenues, Rents, issues, income and profits of the Mortgaged Property or arising in respect of the occupancy, use or possession thereof (collectively, "Impositions"). The Borrower will, upon the request of the Bank, deliver to the Bank receipts evidencing the payment of all such Impositions imposed upon or assessed against it or the Mortgaged Property or the revenues, Rents, issues, income or profits thereof.

(b) The Borrower will pay all taxes except income, franchise or other similar taxes, inheritance, estate and gift taxes, imposed on the Bank by reason of its ownership of the Note or this Mortgage.

Section 1.08 Deposits for Taxes and Insurance Premiums. (a) At any time following after the occurrence of an Event of Default Bank may require that Borrower shall on the first day of each month deposit with Bank or, at the direction of Bank, with any service or financial institution designated for such purposes by Bank (whichever of the foregoing is applicable being the "Depository") one-twelfth (1/12) of the annual real estate taxes ("Taxes") assessed against the Mortgage Property (and, if Bank shall so elect, any or all other Impositions) and Borrower shall accordingly make such deposits. In addition, after the occurrence of an Event of Default, if required by Bank, Borrower shall also deposit with the Depository a sum of money which, together with the aforesaid monthly installments, will be sufficient to make payments of all Taxes (and, if Bank shall so elect, any or all other Impositions) at least forty-five (45) days before such payments are due. If the amount of any such payment is not ascertainable at the time any such deposit is required to be made, the deposit shall be made on the basis of Bank's estimate thereof, and when such amount is fixed for the then-current year, Borrower shall promptly deposit any deficiency with the Depository.

(b) All funds so deposited for the payment of Taxes (the "Tax Funds"), until so applied, shall (i) constitute (and are hereby pledged as) additional security for the Note, (ii) be held by the Depository without interest (except to the extent required under applicable laws), (iii) be kept on deposit in a savings or Banking institution which has its deposits insured by a federal agency, and (iv) may be commingled with other funds of the Depository. So long as no Event of Default shall exist and be continuing hereunder, and provided that Borrower shall have supplied, in the manner set forth in the next sentence of this subsection, the instructions, information and documents necessary for the Depository to make an effective application and payment of such Tax Funds, all Tax Funds so deposited shall be applied to the payment of Taxes in accordance with instructions to be furnished to Bank by Borrower. Borrower shall, at least thirty (30) days before the date on which the Taxes first become payable, furnish the Depository with bills and instructions for the

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payment of the Taxes and/or such other documents as are necessary for the payment of such Taxes. If Borrower has not complied with any of the foregoing or, in any event, during the continuance of an Event of Default hereunder, then to the extent permitted by applicable law Bank may apply the Tax Funds so deposited in the order determined by Bank.

(c) At any time following the occurrence of an Event of Default, Bank may require that on the first day of each month Borrower shall deposit with the Depository one-twelfth (1/12) of the annual Insurance Premiums, and Borrower shall accordingly make such deposits. In addition, if required by Bank, Borrower shall also deposit with the Depository a sum of money which, together with the aforesaid monthly installments, will be sufficient to pay the Insurance Premiums at least forty-five (45) days before such payments are due to the applicable insurer. If the amount of any such Insurance Premiums is not ascertainable at the time any such deposit is required to be made, the deposit shall be made on the basis of Bank's estimate thereof, and when such Insurance Premiums are fixed for the then-current year, Borrower shall promptly deposit any deficiency with the Depository.

(d) All funds so deposited for the payment of Insurance Premiums (the "Insurance Premium Funds"), until so applied, shall (i) constitute (and are hereby pledged as) additional security for the Note, (ii) be held by the Depository without interest (except to the extent required under applicable laws), (iii) be kept on deposit in a savings or Banking institution which has its deposits insured by a federal agency, and (iv) may be commingled with other funds of the Depository. So long as no Event of Default shall exist and be continuing hereunder, and provided that Borrower shall have supplied, in the manner set forth in the next sentence of this subsection, the instructions, information and documents necessary for the Depository to make an effective application and payment of the Insurance Premiums, all Insurance Premium Funds so deposited shall be applied to the payment of Insurance Premiums in accordance with instructions to be furnished to Bank by Borrower. Borrower shall, at least thirty (30) days before the date on which the Insurance Premiums first become payable, furnish the Depository with bills and instructions for the payment of the Insurance Premiums and/or such other documents as are necessary for the payment of such Insurance Premiums. If Borrower has not complied with any of the foregoing or, in any event, during the continuance of an Event of Default hereunder, then to the extent permitted by applicable law Bank may apply the Insurance Premium Funds so deposited in the order determined by Bank.

(e) Except as otherwise provided in this Section 1.08, Bank will use the Tax Funds and Insurance Premium Funds (collectively, the "Funds") to pay Taxes, Bank will provide to Borrower, without charge, an annual accounting of the Funds. Such accounting will show all additions to and deductions from the Funds and the reason for each such deduction. Bank will not charge Borrower for holding or keeping the Funds, for using the Funds to pay Taxes or Insurance Premiums, for making a yearly analysis of Borrower's payment of the Funds or for receiving, verifying and totaling assessments and bills.

(f) Upon an assignment or transfer of this Mortgage by Bank, Bank shall assign and/or transfer the unapplied balance of any amounts deposited pursuant to this Section 1.08, if any, to the assignee or transferee (or to a successor Depository designated by such assignee or transferee) and, to the extent permitted by applicable law, Bank shall thereupon be completely released from all liability with respect thereto. This provision shall apply to every transfer of such deposits to a new assignee or transferee (or a successor Depository). When the loan evidenced by the Note has been paid in full, and all other obligations of Borrower under the Loan Documents have been performed and

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observed in full, Bank shall, and at any prior time, Bank, at its election, may, pay over or cause the Depository (if not Bank) to pay over the unapplied balance of the deposits, if any, to the record owner of the Mortgaged Property or its designee and no other person shall have any right or claim thereto.

Section 1.09 Mechanics' and Other Liens. The Borrower will keep the Mortgaged Property free of all mechanics, materialmen and laborers liens, all other liens, and in general will do or cause to be done everything necessary so that the lien hereof shall be fully preserved, at the cost of the Borrower, without expense to the Bank.

Section 1.10 Additional Advances and/or Disbursements. If the Borrower or any party under any of the Loan Documents shall fail to perform any of the covenants contained in this Mortgage, or any covenant contained in the Note, or the other Loan Documents, the Bank may make advances and/or disbursements to perform the same, and all sums so advanced and/or disbursed shall be a lien upon the Mortgaged Property and shall be secured hereby. The Borrower will repay on demand all sums so advanced and/or disbursed with interest at the Default Rate. The provisions of this Section 1.10 shall not prevent any default in the observance of any covenant contained in this Mortgage, or contained in the Note or the other Loan Documents from constituting a default or an Event of Default.

Section 1.11 Financial Statements; Estoppels. (a) The Borrower will keep adequate records and books of account and will permit the Bank, and its agents, to inspect and copy same at the Mortgaged Property at such reasonable times as may be requested by the Bank. Bank shall have the right to share any information obtained thereby with others in the ongoing course of its ownership or sale, if any, of the loan secured hereby, or any interest therein.

(b) The Borrower will at its own cost and expense deliver to the Bank: (1) Within one hundred twenty (120) days after the close of its fiscal year, an annual audited financial statement for the prior fiscal year prepared on an accrual basis and certified by an independent certified public accountant in accordance with generally accepted accounting principles consistently applied, and in a form satisfactory to Bank. (2) Within forty-five (45) days of the end of each fiscal quarter, Borrower shall provide (i) unaudited interim financial statements and (ii) an assessment aging report to Bank. (3) The Borrower will deliver to the Bank such other financial information with respect to the Borrower as the Bank may reasonably request from time to time. (4) The Borrower will deliver to the Bank an annual operating budget for the Mortgaged Property promptly upon adoption of such budgets by the Borrower, each year.

(c) The Borrower from time to time, within ten (10) days upon request by the Bank, will furnish a written statement duly acknowledged stating (1) the amount due whether for principal or interest on this Mortgage, (2) whether any offsets or defenses exist against the Mortgage Amount and, if any are alleged to exist, the nature of each such offset or defense shall be set forth in full detail, (3) whether any default or Event of Default has occurred or is continuing, specifying the nature and the period of existence thereof, and what action the Borrower has taken or proposes to take with respect thereto, and (4) except as otherwise specified, that the Borrower has fulfilled all of its obligations under this Mortgage and the Loan Documents which are required to be fulfilled on or prior to the date of such certificate.

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Section 1.12 **Maintenance of Property; Compliance with Law.** (a) The Borrower will not threaten, commit, permit or suffer any waste to occur on or to the Mortgaged Property, or alter or impair the value of the Mortgaged Property or its use. The Improvements shall not be removed, demolished or substantially altered, nor shall any Chattels be removed without the prior written consent of the Bank, except where appropriate replacements free of superior title, liens and claims are immediately made of value at least equal to the value of the Chattels removed.

(b) The Borrower will keep and maintain or cause to be kept and maintained the Mortgaged Property and the sidewalks and curbs abutting the same in good order and condition and in a rentable and tenantable state of repair and will make or cause to be made, as and when the same shall become necessary, all structural and nonstructural, exterior and interior, ordinary and extraordinary, foreseen and unforeseen repairs, renewals necessary or desirable to that end. In the event that the Mortgaged Property shall be damaged or destroyed, in whole or in part, by fire or any other casualty, or in the event of a taking of a portion of the Mortgaged Property as a result of any exercise of the power of eminent domain, the Borrower shall promptly restore, replace, rebuild, or alter the same as nearly as possible to the condition they were in immediately prior to such fire, other casualty or taking, and shall take such other additional actions and measures as shall be necessary to avoid any default or forfeiture under any Lease or any other applicable agreement. Although damage to or destruction of the Mortgaged Property, or any portion thereof, shall not of itself constitute a default hereunder, the failure of the Borrower to restore, replace, rebuild or alter the same, as hereinabove provided, shall constitute a default hereunder regardless of the availability of insurance proceeds or condemnation awards for such purpose.

(c) The Borrower represents that the Borrower and the Mortgaged Property are presently in compliance with all Laws. The Borrower will promptly comply, and cause the Mortgaged Property to be at all times in compliance, with all Laws.

Section 1.13 **Condemnation.** No proceeding for the condemnation of all or any portion of the Mortgaged Property has been commenced or threatened. The Borrower, immediately upon obtaining knowledge of the institution of any proceedings for the condemnation of the Premises or any portion thereof, will notify the Bank of the pendency of such proceedings. The Bank may participate in any such proceedings and the Borrower from time to time will deliver to the Bank all instruments requested by it to permit such participation. In the event of such condemnation proceedings, the award or compensation payable is hereby assigned to and shall be paid to the Bank up to the Mortgage Amount. The Bank shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be paid. In any such condemnation proceedings the Bank may be represented by counsel selected by the Bank but the Borrower may appear by its counsel to contest the amount of the condemnation award. The proceeds of any award or compensation so received shall, at the option of the Bank, either be applied, without premium, to the prepayment of the Note or be paid over to the Borrower for restoration of the Improvements. The Bank shall not be limited to the interest paid on the proceeds of any award or compensation, but shall be entitled to the payment of interest by the Borrower at the rates provided for herein or in the Note.

Section 1.14 **Leases.** (a) The Borrower will not, without the prior written consent and approval of the Bank in each instance, (i) execute an assignment of the rents from the Mortgaged Property or any part thereof, or (ii) enter into any Leases. Borrower

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will not without the prior written consent and approval of the Bank, in each instance, (y) amend, modify, terminate or consent to the cancellation or surrender of any Lease, now existing or hereafter to be made, or (z) accept prepayments of any installments of rents to become due under such Leases, except prepayments in the nature of security for the performance of the lessees thereunder. Notwithstanding the foregoing, so long as no Event of Default has occurred and is continuing, Bank hereby consents to the execution of proprietary leases of apartments from Borrower to a tenant-shareholder of Borrower, to the surrender or termination of such proprietary leases of apartments where the surrendered or terminated proprietary lease is immediately replaced (or where the Borrower makes best efforts for such immediate replacement) by a newly-executed proprietary lease of the same apartment to a tenant-shareholder of Borrower, and to all assignments of such proprietary leases of apartments from a tenant-shareholder of Borrower to another tenant-shareholder or incoming tenant-shareholder of Borrower, provided, however, that the rights of tenant-shareholders and their assignees under such proprietary leases shall be subordinate to this Mortgage and to the rights of Bank hereunder. No consent is hereby given to any execution, surrender, termination or assignment of a proprietary lease under terms that would waive or reduce the obligation of the resulting tenant-shareholder under such proprietary lease to pay cooperative assessments in full when due or the obligation of the former tenant-shareholder to pay any unpaid portion of such assessments. All such proprietary leases shall be in the form provided to Lender at the time this Mortgage was granted, without material change.

(b) The Borrower will at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in all Leases on the part of the lessor thereunder to be kept and performed, and shall do all things necessary to compel performance by the lessee under each Lease of all obligations, covenants, and agreements by such lessee to be performed thereunder. If any of such Leases provide for the giving by the lessee of certificates with respect to the status of such Leases, the Borrower shall exercise its right to request such certificates within five (5) days of any demand therefor by the Bank. The Borrower shall promptly notify the Bank of (i) the commencement of any action or proceeding by any lessee, the purpose of which shall be the cancellation of any Lease or diminution or offset against the rent payable under any such Lease, or (ii) the interposition by any lessee of any defense in any action or proceeding brought by the Borrower against such lessee, or (iii) a written notice received by the Borrower from any lessee claiming constructive eviction, and will cause a copy of any process, pleading or notice received by the Borrower in reference to any such action, defense or claim to be promptly delivered to the Bank.

(c) The Borrower shall furnish to the Bank, within thirty (30) days after request, a written schedule of all Leases, the names of the respective lessees, the terms of their respective Leases, the space occupied and the rentals payable thereunder, and, if also requested, true copies of all such Leases.

Section 1.15 Notices to Bank. Borrower shall give written notice to Bank promptly (but in no event later than ten (10) business days after Borrower's discovery thereof) upon the occurrence of (1) any default by Borrower under this Mortgage or any other Document, (2) any pending or threatened litigation affecting Borrower or the Mortgaged Property, (3) any claims, disputes, judgments or violations of law, or any breach by Borrower of any material agreement to which Borrower is a party, and (4) any other facts and circumstances which might materially impact the Mortgaged Property, Borrower, or the loan secured hereby.

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Section 1.16 **Attornment.** To the extent not so provided by applicable law, each Lease entered into after the date hereof shall provide that, in the event of the enforcement by the Bank of the remedies provided for by law or by this Mortgage, the lessee thereunder will, upon request of any person succeeding to the interest of the Borrower as a result of such enforcement, automatically become the lessee of said successor in interest, without change in the terms or other provisions of such Lease, provided, however, that said successor in interest shall not be bound by (i) any payment of rent or additional rent for more than one month in advance, except prepayments in the nature of security for the performance by said lessee of its obligations under said Lease, (ii) any amendment or modification of the Lease made without the consent of the Bank or such successor in interest, or (iii) any work required to be done by the Borrower pursuant to the terms of said Lease. Each such Lease shall also provide that, upon request by said successor in interest, such lessee shall execute and deliver an instrument or instruments confirming such attornment.

Section 1.17 **Expenses of Bank.** The Borrower agrees that if any action or proceeding be commenced, excepting an action to foreclose this Mortgage or to collect the indebtedness hereby secured, to which action or proceeding the Bank is a party by reason of the execution of this Mortgage or the Note which it secures, or in which it becomes necessary to defend or uphold the lien of this Mortgage, all sums paid by the Bank for the expense of any litigation to prosecute or defend the transaction and the rights and lien created hereby (including, without limitation, reasonable attorneys' fees) shall be paid by the Borrower together with interest thereon from the date of payment by the Bank at the Default Rate. All such sums paid and the interest thereon shall be a lien upon the Mortgaged Property, and shall be secured hereby.

Section 1.18 **Change in Law Affecting Mortgages.** The Borrower agrees that in the event of the passage after the date of this Mortgage of any law deducting any lien from the value of land for the purpose of taxation, or changing in any way the laws now in force for the taxation of mortgages or debts secured by a mortgage, or the manner of the collection of any such taxes, so as to impose upon Bank any tax that previously would have been payable by Borrower, the whole of the principal sum secured by this Mortgage, together with interest due thereon, shall at the option of the Bank, without notice to any party, become immediately due and payable.

Section 1.19 **Utilities.** The Mortgaged Property will be provided with adequate water, sewer and other utility facilities at all times, in compliance with all Laws.

Section 1.20 **Restrictions on Transfer or Encumbrance.** The Borrower shall not, directly or indirectly, by transfer, mortgage, hypothecation, encumbrance or conveyance, do or suffer the assignment, transfer, sale, conveyance, or encumbrance junior or senior hereto of the Mortgaged Property or any part thereof or any interest therein or in the Borrower (except for transfers of stock of Borrower in connection with the assignment of a proprietary lease for an apartment unit in the Improvements, by a tenant-shareholder of Borrower to other persons who by virtue of such transfers become tenant-shareholders in Borrower) without in each instance the prior written consent of the Bank.

Section 1.21 **Hazardous Materials.** Borrower represents, warrants and covenants that (1) to the best knowledge of Borrower, neither Borrower nor any prior owner, nor any current or prior occupant of the Mortgaged Property has used Hazardous Materials, on, from, or affecting the Mortgaged Property in any manner which violates any Environmental Laws, and (2) the Mortgaged Property is in compliance with all

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Environmental Laws, and no Hazardous Materials have been, or are incorporated in, stored on, treated on or disposed of on or from the Mortgaged Property. Borrower shall (1) keep or cause the Mortgaged Property to be kept free of Hazardous Materials, and (2) shall comply with and ensure compliance by all tenants and subtenants with all Environmental Laws, (3) conduct and complete all investigations, studies, sampling, and testing and all remedial, removal, and other actions necessary to clean up and remove all Hazardous Materials, on, from, or affecting the Mortgaged Property (i) in accordance with all Laws, (ii) to the satisfaction of the Bank, and (iii) within six (6) months from the date of discovery of any violation of Environmental Laws, or sooner if required by any Law and (4) defend, indemnify, and hold harmless the Bank and its employees, agents, officers, and directors, from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses of whatever kind or nature, known or unknown, contingent or otherwise, arising out of, or in any way related to (i) the presence, disposal, release, or threatened release of any Hazardous Materials; (ii) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such Hazardous Materials; (iii) any lawsuit brought or threatened, settlement reached, or government order relating to such Hazardous Materials; and/or (iv) any violation of Laws, or any policies or requirements of the Bank, which are based upon or in any way related to such Hazardous Materials including, without limitation, attorney and consultant fees, investigation and laboratory fees, court costs, and litigation expenses. If at any time prior to repayment of all sums secured by this Mortgage, the estimated cost, as reasonably determined by Bank, to remove Hazardous Materials or remedy any condition pertaining to the existence, release or threatened release of Hazardous Materials on or affecting the Mortgaged Property exceeds Ten Thousand (\$10,000.00) Dollars, Borrower shall promptly deposit with Bank the estimated cost, as reasonably determined by Bank, to effect such removal or remedy, to secure Borrower's prompt compliance with the requirements of the preceding sentence. In the event of Borrower's failure to comply with the provisions of this Section 1.21, Bank may apply any or all of such sums so deposited with Bank to affect the removal or other remedy as required pursuant to this Section 1.21. Any sums not so applied shall be returned to Borrower by Bank promptly upon completion of the removal or other remedy required hereunder to the satisfaction of Bank. In the event this Mortgage is foreclosed, or Borrower tenders a deed in lieu of foreclosure, Borrower shall deliver the Mortgaged Property to the Bank free of any and all Hazardous Materials so that the condition of the Mortgaged Property shall be in compliance with all Laws. The provisions of this Section 1.21 shall be in addition to any and all obligations and liabilities Borrower may have to the Bank at law or otherwise, and shall survive the transactions contemplated herein.

Section 1.22 Easements and Instruments of Record. The Borrower will promptly perform and observe, or cause to be performed and observed, all of the terms, covenants and conditions of all instruments of record affecting the Mortgaged Property, and the Borrower shall do or cause to be done all things necessary to preserve intact and unimpaired any and all easements, appurtenances and other interests and rights in favor of or constituting any portion of the Mortgaged Property.

Section 1.23 Business Purpose. The Borrower represents and warrants that: (a) the proceeds of the Loan will be used for the purposes specified in Sections 205/4 (a) or (c) of Chapter 815 of the Illinois Compiled Statutes, as amended; (b) the Loan constitutes a "business loan" within the purview of those Sections; and (c) the proceeds of the Loan will not be used for the purchase of registered equity securities within the purview of Regulation "U" issued by the Board of Governors of the Federal Reserve System.

Section 1.24 Right of Entry. The Bank and its authorized representatives and designees shall have the right at all reasonable times during usual business hours or as

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otherwise required in the event of an emergency to enter upon and inspect all portions of the Mortgaged Property.

Section 1.25 Additional Indebtedness; Service Contracts; Additional Liabilities. Borrower shall not, without the prior written consent of Bank in each instance, incur any additional indebtedness, secured or unsecured other than that secured by the lien of this mortgage. Borrower shall not, without the prior written consent of Bank in each instance, enter into (i) any service contracts or other agreements or incur any other liability ("Contractual Obligations") in replacement of Contractual Obligations reflected in the annual operating budget provided to the Bank which would be binding upon a successor owner of the Mortgaged Property and which would increase the liability of the Borrower (relative to the Contractual Obligation being replaced) by an amount in excess of Seventy-Five Thousand (\$75,000) Dollars for any particular such Contractual Obligation or One Hundred Fifty Thousand (\$150,000) for all such Contractual Obligations in the aggregate, or (ii) Contractual Obligations in addition to Contractual Obligations reflected in the annual operating budget delivered to the Bank, which would be binding upon a successor owner of the Mortgaged Property, and which would create a Borrower liability in excess of Seventy-Five Thousand (\$75,000) Dollars for any particular such Contractual Obligation or One Hundred Fifty Thousand (\$150,000) for all such Contractual Obligations in the aggregate.

Section 1.26 Limitation on Non-Owner Occupied Apartment Units. Borrower hereby represents that one hundred percent (100%) of all of the residential apartment units at the Mortgaged Property are owned and actually occupied by shareholders of Borrower under proprietary leases with Borrower, and are not subject to subleases or similar occupancy agreements with nontenant-shareholder occupants. Borrower covenants and agrees that at no time shall more than zero percent (0%) of all of the residential apartment units at the Mortgaged Property be owned or occupied by persons or entities who are not tenant-shareholders of such apartment units under proprietary leases with Borrower.

Section 1.27 Property Management. The Mortgaged Property shall be managed by an independent professional managing agent reasonably acceptable to Bank. Such managing agent shall maintain a fidelity bond in an amount and with an insurer reasonably acceptable to Bank. Within sixty (60) days after receipt by Borrower of a notice from Bank, Borrower shall terminate such managing agent if, in the reasonable judgment of Bank, the management of the Mortgaged Property by such managing agent may have an adverse affect on the value of the Mortgaged Property or on the ability of the Borrower to perform its obligations under this Mortgage. Notwithstanding the foregoing, Bank agrees that Borrower may "self-manage" the Premises for so long as Borrower is not in default under the terms and provisions of any of the Loan Documents. If an Event of Default shall occur or if Borrower shall be in monetary or material default under any of the terms and provisions of any of the Loan Documents, then Bank shall have the right at any time thereafter to require Borrower to retain an independent managing agent reasonably acceptable to Bank as the managing agent for the Premises.

Section 1.28 Certain Representations and Warranties. Borrower represents and warrants to Bank that: (a) The Loan Documents are all valid, binding and enforceable obligations of Borrower; (b) There is no action, suit or proceeding threatened against or affecting Borrower or the Mortgaged Property which could materially adversely affect Borrower or the Mortgaged Property; (c) All Laws and governmental and private restrictions affecting Borrower or the Mortgaged Property have been complied with and all governmental and private consents necessary to Borrower's consummation of the loan

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secured hereby have been obtained; (d) Borrower is not in violation of any indenture, lease, loan or other agreement to which it is a party or by which it or its properties may be bound; (e) The statements, information and reports furnished to Bank in connection with the loan secured hereby (including the statements, information and reports set forth in, or furnished in connection with, the application for said loan and/or the commitment letter between Borrower and Bank with respect to said loan) are accurate, correct and complete in all respects; (f) There are no delinquent Impositions (g) The Mortgaged Property is separately assessed for tax purposes; (h) Each party (other than Bank) to the Note, the Mortgage, and all other Loan Documents had legal capacity to enter into, execute and deliver the same, and the Note, Mortgage and all other Loan Documents have been duly and properly executed by such parties; (i) The proceeds of the loan secured by this Mortgage have been fully disbursed and there is no requirement for future advances hereunder; (j) There are no mechanics or similar liens or claims which have been filed for work, labor or material, or which relate to the existence or cleanup of any Hazardous Materials affecting the Mortgaged Property which are or may be liens prior to, or equal or coordinate with, the lien of this Mortgage; (k) All Improvements are wholly within the boundaries and building restriction lines of the Premises except as described on the title policy and as shown on the surveys delivered to the Bank in connection herewith, and no improvements on adjoining properties encroach upon the Mortgaged Property except as described in the title policy and as shown on the surveys delivered to the Bank in connection herewith, and no covenants, conditions and restrictions, if any, are violated by the Improvements and no future violations could give rise to any rights of reverter or reentry; (l) The Borrower has no knowledge of any circumstances or condition with respect to the Mortgage, the Mortgaged Property or use thereof, the Borrower's credit standing, any Lease, or any tenant's credit standing that can reasonably be expected to cause private institutional investors to regard the loan evidenced by the Note and secured hereby to be an unacceptable investment, cause such loan to become delinquent, or materially adversely affect the value or marketability of such loan; (m) all Leases (including, without limitation, proprietary leases), licenses or other agreements pursuant to which any person or entity is entitled to use or occupy any portion of the Mortgaged Property are subject and subordinate to this Mortgage; and (n) no Lease contains any option, right of offer or right of refusal to purchase the Mortgaged Property or any portion thereof.

Section 1.29 **Vaults.** Borrower shall at all times comply with all applicable laws with respect to the construction, use and maintenance of any vaults adjacent to the Mortgaged Property. If by reason of the failure of payment of taxes, vault rents, permit fees or assessments, Borrower's right to use the vaults, if any, adjacent to the Mortgaged Property may be discontinued, Borrower shall take such steps (including making any such payment) as may be necessary to insure that such vaults may continue to be used in connection with the use, operation and maintenance of the Mortgaged Property.

Section 1.30 **Tenant-Shareholder Maintenance Obligations.** Borrower hereby agrees that it will maintain and not reduce the maintenance charges payable by its tenant-shareholders under proprietary leases below a level which is less than the sum of (i) the amount required to pay all expenses of Borrower at any time and from time to time, including, without limitation, all operating and other expenses of the Premises and the Improvements (including, without limitation, all Impositions and Insurance Premiums) but excluding depreciation expense, plus (ii) One Hundred Twenty-Five Percent (125%) of all debt service payments due under the Note and/or the Mortgage and all debt service payments payable under any and all other loans now or at any time hereafter owed by Borrower. Failure to comply with the provisions of this paragraph shall constitute an Event of Default under the Mortgage as if such default were specifically listed in Section 2.01 hereof. If, at any time, a receiver is appointed with respect to all or any portion of the

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Mortgaged Property, Borrower agrees that the order appointing the receiver may contain a provision requiring the receiver to pay all debt service payments under any loan evidenced by the Note and/or secured by this Mortgage, it being recognized that such debt service payments are proper obligations of Borrower and must be paid out of maintenance charges payable under the proprietary leases. In addition to all other remedies granted to Lender hereunder in the event of a default, Borrower hereby irrevocably appoints Lender its attorney-in-fact, which appointment is coupled with an interest, to perform the foregoing covenants on behalf of Borrower.

Section 1.31 **Maintenance of Cash Balances.** The Borrower shall maintain cash balances reserves at all times sufficient to meet its anticipated working capital requirements.

ARTICLE II

EVENTS OF DEFAULT AND REMEDIES

Section 2.01 **Events of Default and Remedies.** If one or more of the following Events of Default shall happen:

(a) if (i) a default shall be made in the payment of any monthly installment due on the Note, when and as the same shall become due and payable, and said default shall have continued for a period of ten (10) days, or (ii) a default shall be made in any payment of principal or any other sums due under the Note or Mortgage on the date of maturity of the Note, whether at the stated maturity date or by acceleration or otherwise, in each case, as in the Note and this Mortgage provided, or (iii) default shall be made in the payment of any Imposition required by Section 1.07 to be paid and said default shall have continued for a period of ten (10) days, or (iv) default shall be made in the payment of any deposits for Insurance Premiums or Impositions required by Section 1.08 to be paid to Bank and said default shall have continued for a period of ten (10) days, or (v) default shall be made in the due observance or performance of any covenant or agreement on the part of the Borrower contained in Section 1.01, 1.14, 1.20, 1.21 or 1.22 hereof (for the purposes of this clause, and for subparagraph (b) below, if any representation made in Section 1.01 shall be incorrect, it shall be deemed to be a default); or

(b) except as set forth in Section 2.01(a) hereof, if default shall be made in the due observance or performance of any covenant or agreement on the part of the Borrower contained herein and such default continues for thirty (30) days after receipt by Borrower of notice by Bank of such default; or

(c) if (i) any Event of Default shall occur under any of the Loan Documents, or (ii) if any such Loan Documents shall not contain "Events of Default", then default shall be made in the due observance, performance or fulfillment of any other covenant or condition on the part of the Borrower contained in any such Document and such default shall have continued for a period of thirty (30) days; or

(d) if by the order of a court of competent jurisdiction, a trustee, receiver or liquidator of the Mortgaged Property or any part thereof, or of the Borrower shall be appointed; or

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(e) if the Borrower shall file a petition in Bankruptcy or for an arrangement or for reorganization pursuant to the Federal Bankruptcy Code or any similar law, federal or state, or if, by decree of a court of competent jurisdiction, the Borrower shall be adjudicated a Bankrupt, or be declared insolvent, or shall make an assignment for the benefit of creditors, or shall admit in writing its inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or receivers of all or any part of the Mortgaged Property; or

(f) if any of the creditors of the Borrower shall file a petition in Bankruptcy against the Borrower or for reorganization of the Borrower pursuant to the Federal Bankruptcy Code or any similar law, federal or state, and if such petition shall not be discharged or dismissed within sixty (60) days after the date on which such petition was filed; or

(g) if final judgment for the payment of money shall be rendered against the Borrower and the Borrower shall not discharge or bond the same or cause it to be discharged or bonded within thirty (30) days from the entry thereof, or shall not appeal therefrom or from the order, decree or process upon which or pursuant to which said judgment was granted, based or entered, and secure a stay of execution pending such appeal or if the financial condition of the Borrower shall undergo a materially adverse change; or

(h) if it shall be illegal for the Borrower to pay any tax referred to in Section 1.07 hereof or if the payment of such tax by the Borrower would result in a violation of the usury laws of the state in which the Premises are located; or

(i) if the holder of a junior or senior mortgage or other lien or encumbrance on the Mortgaged Property, or any part thereof, institutes foreclosure or other proceedings for the enforcement of its remedies thereunder, which foreclosure or other proceedings are not discharged (without affecting the Mortgaged Property) or bonded within thirty (30) days from the institution thereof (this subsection (i) shall not be construed to imply that the Bank consents to any junior or senior lien or encumbrance); or

(j) if any easement over, across or under or otherwise affecting the Mortgaged Property or any portion thereof shall be granted without the Bank's prior written consent;

then and in every such case:

I. The Bank may declare and accelerate the entire principal of the Note then outstanding (if not then due and payable), and all accrued and unpaid interest thereon, to be due and payable immediately, and upon any such declaration and acceleration the principal of the Note and said accrued and unpaid interest shall become and be immediately due and payable, anything in the Note or in this Mortgage to the contrary notwithstanding;

II. The Bank personally, or by its agents or attorneys, may enter into and upon all or any part of the Mortgaged Property and each and every part thereof, and may exclude the Borrower, its agents and servants wholly therefrom; and having and holding the same, may use, operate, manage and control the Mortgaged Property or any part thereof and conduct

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the business thereof, either personally or by its superintendents, managers, agents, servants, attorneys or receivers; and upon every such entry, the Bank, at the expense of the Borrower, from time to time, either by purchase, repairs or construction, may maintain and restore the Mortgaged Property, whereof it shall become possessed as aforesaid, may complete the construction of the Improvements, if applicable, and in the course of such completion may make such changes in the contemplated Improvements as it may deem desirable and may insure the same; and likewise, from time to time, at the expense of the Borrower, the Bank may make all necessary or proper repairs, renewals and replacements and such useful alterations, additions, betterments and improvements thereto and thereon as to it may seem advisable; and in every such case the Bank shall have the right to manage and operate the Mortgaged Property and to carry on the business thereof and exercise all rights and powers of the Borrower with respect thereto either in the name of the Borrower or otherwise as it shall deem best; and the Bank shall be entitled to fix or modify Rents, sue for possession of any portion of the Mortgaged Property, relet all or any part of the Mortgaged Property, collect and receive all gross receipts, earnings, revenues, Rents, issues, profits and income of the Mortgaged Property and every part thereof, all of which shall for all purposes constitute property of the Bank; and after deducting the expenses of conducting the business thereof and of all maintenance, repairs, renewals, replacements, alterations, additions, betterments and improvements and amounts necessary to pay for taxes, assessments, insurance and prior or other proper charges upon the Mortgaged Property or any part thereof, as well as just and reasonable compensation for the services of the Bank and for all attorneys, counsel, agents, clerks, servants and other employees by it properly engaged and employed, the Bank may apply the moneys arising as aforesaid in such manner and at such times as the Bank shall determine in its discretion to the payment of the indebtedness secured hereby and the interest thereon, when and as the same shall become payable and/or to the payment of any other sums required to be paid by the Borrower under this Mortgage or the Loan Documents; and

III. The Bank, with or without entry, personally or by its agents or attorneys, insofar as applicable, may:

(1) sell the Mortgaged Property or any part thereof to the extent permitted and pursuant to the procedures provided by law, and all estate, right, title and interest, claim and demand therein, at one or more sales, as an entity or in parcels, and at such time and place upon such terms and after such notice thereof as may be required or permitted by law; or

(2) institute proceedings for the complete or partial foreclosure of this Mortgage; or

(3) take such steps to protect and enforce its rights whether by action, suit or proceeding in equity or at law for the specific performance of any covenant, condition or agreement in the Note, this Mortgage, or the other Loan Documents or in aid of the execution of any power herein granted, or for any foreclosure hereunder, or for the

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enforcement of any other appropriate legal or equitable remedy or otherwise as the Bank shall elect.

IV. For purposes of this Section 2.01, Borrower hereby grants to Lender its irrevocable power of attorney, coupled with an interest, to take any and all of the aforementioned actions and any and all other actions designated by Lender for the proper management and preservation of the Mortgaged Property. The exercise by Lender of the option granted it in this Section 2.01 and the collection of the Rents and the application thereof as herein provided shall not be considered a waiver of any default by Borrower under the Note, the Leases or this Mortgage.

Section 2.02 Foreclosure Sale. (a) The Bank may adjourn from time to time any sale by it to be made under or by virtue of this Mortgage by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, the Bank, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(b) Upon the completion of any sale or sales made by the Bank under or by virtue of this Article II, the Bank, or any officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument or instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. The Bank is hereby irrevocably appointed the true and lawful attorney of the Borrower, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of any part of the Mortgaged Property and rights so sold. The Bank may, for such purpose, execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, the Borrower hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Nevertheless, the Borrower, if so requested by the Bank, shall ratify and confirm any such sale or sales by executing and delivering to the Bank or to such purchaser or purchasers all such instruments as may be advisable, in the judgment of the Bank, for the purpose, and as may be designated in such request. Any such sale or sales made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Borrower in and to the properties, interests and rights so sold, and shall be a perpetual bar both at law and in equity against the Borrower and against any and all persons claiming or who may claim the same, or any part thereof from, through or under the Borrower.

(c) In the event of any sale made under or by virtue of this Article II (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the entire principal of, and interest on, the Note, if not previously due and payable, and all other sums required to be paid by the Borrower pursuant to this Mortgage, immediately thereupon shall, anything in the Note or in this Mortgage to the contrary notwithstanding, become due and payable.

(d) The purchase money proceeds or avails of any sale made under or by virtue of this Article II, together with any other sums which then may be held by the Bank under this Mortgage, whether under the provisions of this Article II or otherwise, shall be applied as follows:

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First: to the payment of the costs and expenses of such sale, including reasonable compensation to the Bank, its agents and attorneys, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by the Bank under this Mortgage, together with interest at the Default Rate on all advances made by the Bank and all taxes or assessments paid by Bank except any taxes, assessments or other charges subject to which the Mortgaged Property shall have been sold;

Second: to the payment of the whole amount then due, owing or unpaid upon the Note for principal and interest, with interest on the unpaid principal at the Default Rate from and after the happening of any default described in clause (a)(i), (ii), (iii) or (iv) of Section 2.01 from the due date of any such payment of principal until the same is paid;

Third: to the payment of any other sums required to be paid by the Borrower pursuant to any provision of this Mortgage, the Note, or the other Loan Documents, all with interest at the Default Rate, from the date such sums were or are required to be paid under this Mortgage, the Note or the other Loan Documents; and

Fourth: to the payment of the surplus, if any, to whomsoever may be lawfully entitled to receive the same.

(e) Upon any sale made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, the Bank may bid for and acquire the Mortgaged Property or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the indebtedness of the Borrower secured by this Mortgage the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Bank is authorized to deduct under this Mortgage.

Section 2.03 Payment of Indebtedness After Default. (a) If an Event of Default shall have occurred, then upon written demand of the Bank, the Borrower will pay to the Bank the whole amount which then shall have become due and payable on the Note, for principal and interest or both or any other sums due under any of the Loan Documents, as the case may be, and after the happening of said Event of Default will also pay to the Bank interest at the Default Rate on the then unpaid principal of the Note, and the sums required to be paid by the Borrower pursuant to any provision of this Mortgage and in addition thereto such further amount as shall be sufficient to cover the costs and expenses of collection, including reasonable compensation to the Bank, its agents, and attorneys and any expenses incurred by the Bank hereunder. In the event the Borrower shall fail forthwith to pay such amounts upon such demand, the Bank shall be entitled and empowered to institute such action or proceedings at law or in equity as may be advised by its counsel for the collection of the sums so due and unpaid, and may prosecute any such action or proceedings to judgment or final decree and may enforce any such judgment or final decree against the Borrower and collect out of the property of the Borrower wherever situated, as well as out of the Mortgaged Property, in any manner provided by law, moneys adjudged or decreed to be payable with interest thereon at the Default Rate.

(b) The Bank shall be entitled to recover judgment as aforesaid either before or after or during the pendency of any proceedings for the enforcement of the

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provisions of this Mortgage. The right of the Bank to recover such judgment shall not be affected by any entry or sale hereunder, or by the exercise of any other right, power or remedy for the enforcement of the provisions of this Mortgage, or the foreclosure of the lien hereof. In the event of a sale of the Mortgaged Property or any part thereof and of the application of the proceeds of sale, as in this Mortgage provided, to the payment of the indebtedness hereby secured, the Bank shall be entitled to (i) enforce payment of, and to receive all amounts then remaining due and unpaid upon, the Note, (ii) enforce payment of all other charges, payments and costs due under this Mortgage, and (iii) recover judgment for any portion of the debt remaining unpaid, with interest thereon at the Default Rate. In case of proceedings against the Borrower in insolvency or Bankruptcy or any proceedings for its reorganization or involving the liquidation of its assets, then the Bank shall be entitled to prove the whole amount of principal and interest due upon the Note to the full amount thereof, and all other payments, charges and costs due under this Mortgage, without deducting therefrom any proceeds obtained from the sale of the whole or any part of the Mortgaged Property, provided, however, that in no case shall the Bank receive a greater amount than such principal and interest and such other payments, charges and costs from the aggregate amount of the proceeds of the sale of the Mortgaged Property or any part thereof and the distribution from the estate of the Borrower.

(c) No recovery of any judgment by the Bank and no levy of any execution under any judgment upon the Mortgaged Property or upon any other property of the Borrower shall affect, in any manner or to any extent, the lien of this Mortgage upon the Mortgaged Property or any part thereof, or any liens, rights, powers or remedies of the Bank hereunder, but such liens, rights, powers and remedies of the Bank shall continue unimpaired as before.

(d) Any moneys thus collected by the Bank under this Section 2.03 shall be applied by the Bank in accordance with the provisions of paragraph (d) of Section 2.02.

Section 2.04 Waiver of Personal Service, Appointment of Receiver. After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceedings by the Bank to obtain judgment for the principal of, or interest on, the Note and other sums required to be paid by the Borrower pursuant to any provisions of this Mortgage, or of the Loan Documents, or of any nature in aid of the enforcement of the Note or of this Mortgage, the Borrower does hereby (a) waive personal service of process and consent to service by certified mail to the address of the Borrower set forth on the cover page of this Mortgage (with copies to be sent as provided in Section 3.03), and (b) if required by the Bank, consent to the appointment of a receiver or receivers of the Mortgaged Property or any part thereof or any business or businesses conducted thereon and of all the earnings, revenues, Rents, issues, profits and income thereof. After the happening of any Event of Default, or upon the commencement of any proceedings to foreclose this Mortgage or to enforce the specific performance hereof or in aid thereof or upon the commencement of any other judicial proceeding to enforce any right of the Bank, the Bank shall be entitled, as a matter of right, if it shall so elect, without the giving of notice to any other party and without regard to the adequacy or inadequacy of any security for the Mortgage indebtedness, forthwith either before or after declaring the unpaid principal of the Note to be due and payable, to the appointment of such receiver or receivers.

Section 2.05 Possession of Premises. Notwithstanding the appointment of any receiver, liquidator or trustee of the Borrower, or of any of its property, or of the

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Mortgaged Property or any part thereof, the Bank shall be entitled to retain possession and control of all property now or hereafter held under this Mortgage.

Section 2.06 **Remedies Cumulative.** No remedy herein conferred upon or reserved to the Bank is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the Bank to exercise any right or power accruing upon any Event of Default shall impair any such rights or power, or shall be construed to be a waiver of any such Event of Default or any acquiescence therein; and every power and remedy given by this Mortgage to the Bank may be exercised from time to time as often as may be deemed expedient by the Bank. Nothing in this Mortgage or in the Note shall affect the obligation of the Borrower to pay the principal of, and interest on, the Note in the manner and at the time and place therein respectively expressed.

Section 2.07 **No Stay; Exemption or Moratorium.** The Borrower will not at any time insist upon, or plead, or in any manner whatsoever claim or take any benefit or advantage of any stay or extension or moratorium law, any exemption from execution or sale of the Mortgaged Property or any part thereof, wherever enacted, now or at any time hereafter in force, which may affect the covenants and terms of performance of this Mortgage, nor claim, take or insist upon any benefit or advantage of any law now or hereafter in force providing for the valuation or appraisal of the Mortgaged Property, or any part thereof, prior to any sale or sales thereof which may be made pursuant to any provision herein, or pursuant to the decree, judgment, or order of any court of competent jurisdiction, and covenants not to hinder, delay or impede the execution of any power herein granted or delegated to the Bank, but to suffer and permit the execution of every power as though no such law or laws had been made or enacted. The Borrower for itself and all who may claim under it, waives, to the extent that it lawfully may, all right to have the Mortgaged Property or any part thereof marshaled upon any foreclosure hereof.

ARTICLE III

MISCELLANEOUS

Section 3.01 **Binding Obligations.** All of the grants, covenants, terms, provisions and conditions herein shall run with the land and shall apply to, bind and inure to the benefit of, the successors and assigns of the Borrower and the successors and assigns of the Bank. If there be more than one Borrower, the covenants and warranties hereof shall be joint and several. As used herein, the singular shall include the plural as the context requires.

Section 3.02 **Severability.** In the event any one or more of the provisions contained in this Mortgage or in the Note or in any of the other Loan Documents shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Bank, not affect any other provision of this Mortgage, but this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

Section 3.03 **Notices.** All notices hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by registered or certified mail (return receipt requested) as follows:

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If to Borrower:

1350 Astor Cooperative Apartments, Inc.
1350 North Astor Street
Chicago, Illinois 60610
Attention: President

If to Bank:

The Northern Trust Company
Oak Street Financial Center
120 East Oak Street
Chicago, Illinois 60611
Attention: Managing Director

Each party may designate a change of address by notice to the other party, given at least fifteen (15) days before such change of address is to become effective.

Any written notice sent by registered or certified mail shall be deemed to have been served forty-eight (48) hours after the date it was mailed in accordance with the foregoing provisions.

Section 3.04 **Waiver of Notice.** Whenever in this Mortgage the giving of notice by mail or otherwise is required, the giving of such notice may be waived in writing by the person or persons entitled to receive such notice. Borrower shall not be entitled to any notices of any nature whatsoever from Bank except with respect to matters for which this Mortgage specifically and expressly provides for the giving of notice by Bank to Borrower, and Borrower hereby expressly waives the right to receive any notice from Bank with respect to any matter for which this Mortgage does not specifically and expressly provide for the giving of notice by Bank to Borrower.

Section 3.05 **Assignment.** This Mortgage, and any instruments made in connection herewith, may be assigned by the Bank without notice to, or the consent of, the Borrower or any other party.

Section 3.06 **Default Rate.** The Default Rate provided for herein shall continue to accrue and be paid on any amount to which the Default Rate is applied until said amount is paid in full.

Section 3.07 **Security Agreement and Financing Statement.** This Mortgage constitutes both a real property mortgage and a "security agreement", within the meaning of the Uniform Commercial Code as in effect in the State of Illinois, and the Mortgaged Property includes both real and personal property and all other rights and interest, whether tangible or intangible in nature of Borrower in the Mortgaged Property. Borrower by executing and delivering this Mortgage has granted to Bank, as security for the Note, a security interest in the Chattels. If Borrower shall default under the Note and/or this Mortgage, Bank, in addition to any other rights and remedies which it may have, shall have and may exercise immediately and without demand, any and all rights and remedies granted to a secured party upon default under the Uniform Commercial Code, including, without limiting the generality of the foregoing, the right to take possession of the Chattels or any part thereof, and to take such other measures as Bank may deem necessary for the care, protection and preservation of the Chattels. Upon request or demand of Bank,

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Borrower shall at its expense assemble the Chattels and make them available to Bank at a convenient place acceptable to Bank. Borrower shall pay to Bank on demand any and all expenses, including legal expenses and attorneys' fees, incurred or paid by Bank in protecting its interest in the Chattels and in enforcing its rights hereunder with respect to the Chattels. Any notice of sale, disposition or other intended action by Bank with respect to the Chattels sent to Borrower in accordance with the provisions hereof at least five days prior to such action, shall constitute reasonable notice to Borrower. The proceeds of any disposition of the Chattels, or any part thereof, may be applied by Bank to the payment of the Note and any other obligations of Borrower secured hereby in such priority and proportions as Bank in its discretion shall deem proper.

It is also agreed that if any of the property herein mortgaged is of a nature so that a security interest therein can be perfected under the Uniform Commercial Code in effect in the State of Illinois (the "Code"), this instrument shall constitute a security agreement, fixture filing and financing statement, and for that purpose, the following information is set forth:

- (a) In addition to the foregoing grant of mortgage, Borrower hereby grants a continuing security interest to the Bank in that portion of the Mortgaged Property with respect to which the creation and perfection of a lien is governed by the Code;
- (b) The "Debtor" is the Borrower and "Lender Party" is the Bank.
- (c) Name and address of Debtor are as set forth in the Preamble to this document.
- (d) Name and address of Lender Party are as set forth in the Preamble to this document.
- (e) Description of the types (or items of property covered by this financing statement) all of the aforescribed Mortgaged Property constituting "Fixtures" within the meaning of the Code.
- (f) Description of real estate to which collateral is attached or upon which it is located: Described in Exhibit A.
- (g) The entity organizational number of the Debtor is: 3151-531-9

Bank may file this Mortgage or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified herein as part of the mortgaged property. Any reproduction of this Mortgage or of any other security agreement or financing statement is sufficient as a financing statement.

Borrower agrees to execute, deliver and file or refile any financing statement, continuation statement, or other instruments Bank may reasonably require from time to time to perfect or renew such security interest under the Code. To the extent permitted by law, (i) all of the Fixtures are or are to become fixtures on the Premises and (ii) this instrument, upon recording or registration in the real estate records of the proper office, shall constitute a "fixture-filing" within the meaning of Sections 9-334 and 9-502 of the Code. Subject to the terms and conditions hereof, the remedies for any violation of the covenants, terms and conditions of the agreements herein contained shall be as prescribed

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herein or by general law, or, as to that part of the security in which a security interest may be perfected under the Code, by the specific statutory consequences now or hereafter enacted and specified in the Code, all at the Bank's sole election.

Section 3.08 Bank's Consent and Approval. If Borrower shall request Bank's consent or approval pursuant to any of the provisions of this Mortgage or otherwise, and Bank shall fail or refuse to give, or shall delay in giving, such consent or approval, Borrower shall in no event make, or be entitled to make, any claim for damages (nor shall Borrower assert, or be entitled to assert, any such claim by way of defense, set-off, or counterclaim) based upon any claim or assertion by Borrower that Bank unreasonably withheld or delayed its consent or approval, and Borrower hereby waives any and all rights that it may have from whatever source derived, to make or assert any such claim. Borrower's sole remedy for any such failure, refusal, or delay shall be an action for a declaratory judgment, specific performance, or injunction, and such remedies shall be available only in those instances where Bank has expressly agreed in writing not to unreasonably withhold or delay its consent or approval or where, as a matter of law, Bank may not unreasonably withhold or delay the same.

Section 3.09 Default Under Additional Security. If the payment of the mortgage indebtedness is now or hereafter further secured by assignments of leases or rentals, security agreements, financing statements, mortgages, collateral assignments, pledges, contracts of guaranty, or other additional security documents, any default under the provisions of any such further security documents shall constitute and be a default under this Mortgage, and the Bank may, at its option, exhaust any one or more of the said security documents and the security thereunder as well as the Mortgaged Property covered by this Mortgage either concurrently or independently and in such other and further manner as the Bank may elect, and Bank may apply the proceeds received therefrom upon the mortgage indebtedness without waiving or affecting Bank's rights and remedies under this Mortgage exercised hereunder or whether contained or exercised under any other such security documents.

Section 3.10 Legal Interest Rate. Nothing herein, nor any transaction related hereto, shall be construed or so operate as to require Borrower to pay interest at a greater rate than shall be lawful. Should any interest or other charges paid by Borrower in connection with the loan evidenced by the Note result in the computation or earning of interest in excess of the maximum legal rate of interest which is legally permitted under the laws of the State of Illinois, after taking into account all provisions of the Note and the Loan Documents, then any and all such excess shall be, and the same is hereby waived by the Bank, and any and all such excess shall be automatically credited against and in reduction of the balance due under the indebtedness secured hereby and any portion which exceeds the balance due under the Note and secured hereby shall be paid by the Bank to the Borrower. At the maturity of the Note secured hereby (or prior thereto, in the event of any permitted prepayment, or if the Bank accelerates payment thereof), if the total amount of interest paid, including any service fee and any other charge upon the principal, exceeds the maximum legal contract rate permitted by law, such interest shall be recomputed and any such excess shall be credited to principal or returned to Borrower. It is the intent of the parties hereto that the Borrower, under no circumstances, shall be required to pay, nor shall the Bank be entitled to collect, any interest which is in excess of maximum legal rate permitted under applicable laws.

Section 3.11 Intentionally Omitted.

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Section 3.12 Waiver of Trial By Jury. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY IRREVOCABLY WAIVES TRIAL BY JURY IN ANY JUDICIAL PROCEEDING BROUGHT BY BORROWER OR BANK INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH THIS MORTGAGE, THE NOTE, ANY OTHER LOAN DOCUMENTS AND/OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. TO THE FULLEST EXTENT PERMITTED BY LAW, BORROWER HEREBY IRREVOCABLY WAIVES, IN CONNECTION WITH ANY SUIT, ACTION OR PROCEEDING BROUGHT BY BANK UNDER THIS MORTGAGE OR THE NOTE, ANY AND EVERY RIGHT IT MAY HAVE TO, (I) INTERPOSE ANY COUNTERCLAIM THEREIN AND (II) HAVE THE SAME CONSOLIDATED WITH ANY OTHER OR SEPARATE SUIT, ACTION OR PROCEEDING. NOTHING HEREIN CONTAINED SHALL PREVENT OR PROHIBIT BORROWER FROM INSTITUTING OR MAINTAINING A SEPARATE ACTION AGAINST BANK WITH RESPECT TO ANY ASSERTED CLAIM.

Section 3.13 Recovery of Sums Required To Be Paid. Bank shall have the right from time to time to take action to recover any sum or sums which constitute a part of the indebtedness secured hereby as the same becomes due, without regard to whether or not the balance of such indebtedness shall be due, and without prejudice to the right of Bank thereafter to bring an action of foreclosure, or any other action, for a default or defaults by Borrower existing at the time such earlier action was commenced.

Section 3.14 Illinois Mortgage Foreclosure Law. The Borrower, on behalf of itself and all persons now or hereafter interested in the Mortgaged Property, voluntarily and knowingly hereby: acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate (as defined in the Illinois Mortgage Foreclosure Law, Illinois Compiled Statutes Chapter 735, Section 5/15-1101 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 and any and all other rights and benefits under all present and future appraisal, homestead, moratorium, valuation, exemption, stay, extension, redemption and marshalling statutes, laws or equities now or hereafter existing, and 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 Mortgaged Property. Without limiting the generality of the preceding sentence, the Borrower, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Mortgaged Property subsequent to the date of this Mortgage, hereby irrevocably waives any and all rights of reinstatement or redemption from sale or from or 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, decree or judgment of any court. The Borrower, for itself and for all persons hereafter claiming through or under it or who may at any time hereafter become holders of liens junior to the lien of this Mortgage, hereby expressly waives and releases all rights to direct the order in which any of the Mortgaged Property shall be sold in the event of any sale or sales pursuant hereto and to have any of the Mortgaged Property and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshaled upon any foreclosure of this Mortgage or of any other security for any of said indebtedness.

(a) If any provision of this Mortgage is inconsistent with any applicable provision of the Act (as defined above), 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.

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(b) Without in any way limiting or restricting any of Bank's rights, remedies, powers and authorities under this Mortgage, and in addition to all of such rights, remedies, powers, and authorities, the Bank 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 may be amended from time to time. If any provision of this Mortgage shall grant to Bank any rights, remedies, powers or authorities upon default of the Borrower which are more limited than the rights that would otherwise be vested in Bank under the Act in the absence of said provision, Bank 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 Bank, to the extent reimbursable, under Sections 5/15-1510, 5/15-1512, 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.

Section 3.15 Governing Law. This Mortgage shall be governed by, and construed, enforced and interpreted according to the laws of the State of Illinois without giving effect to the principles of conflicts of law.

Section 3.16 No Oral Modification. Neither this Mortgage nor any provision hereof may be changed, waived, modified, discharged or terminated, except by an instrument in writing signed by the Bank.

Section 3.17 Attorneys' Fees. Wherever "attorneys' or counsel fees" are referred to herein, it shall include disbursements and such fees incurred out of court and in litigation, including, without limitation, appeals and Bankruptcy proceedings.

Section 3.18 No Joint Venture. Nothing contained herein shall create any joint venture, partnership, agency or trust arrangement between Borrower and Bank.

Section 3.19 Set Off. Borrower agrees that, in addition to (and without limitation of) any right of set-off, Bankers' lien or counterclaim Bank may otherwise have, Bank shall be entitled, at its option, to offset balances held by it for the account of Borrower any of its offices, in lawful money of the United States of America or in any other currency, against any principal of or interest on the Note, or any other obligation of Borrower held by Bank, which is not paid when due.

Section 3.20 Marshaling. Borrower waives and releases, to the fullest extent permitted by law and with awareness of the consequences thereof, any right to have the Mortgaged Property marshaled.

Section 3.21 Headings. The headings and captions of the various Articles and Sections of this Mortgage, and the table of contents, are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

Section 3.22 Notice of Refinancing. In order to assist the Bank in the proper and efficient administration of the indebtedness secured hereby, if the Borrower shall at any time desire to refinance all or any portion of the indebtedness secured hereby or to obtain any subordinate indebtedness, the Borrower shall promptly so notify the Bank. The

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giving of any notice pursuant to this Section shall not obligate the Borrower to obtain any such financing or in any way constitute a waiver of any prepayment prohibition contained herein, in the Note or in any other Document. Any such notice given by the Borrower shall expressly state whether or not such notice also constitutes a prepayment notice pursuant to the provisions of the Note.

Section 3.23 **Counterparts.** This Mortgage may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts shall together constitute but one and the same Mortgage.

Section 3.24 **Future Advances.** All future advances that may be subsequently made by the Bank to 1350 Astor Cooperative Apartments, Inc. and secured by this Mortgage shall be made within 20 years of the date hereof and have the same priority as advances made as of the date hereof, although there may be no such advances made on the date hereof and although there may be no indebtedness outstanding at the time any future advance is made, provided that the maximum amount included within the Obligations on account of principal advances made by the Bank to or for the account of any of the Borrower with respect to the Note or other Loan Documents and which is secured hereby shall not at any time exceed in the aggregate Ten Million Dollars (\$10,000,000.00) plus the total of all advances made by the Bank to preserve or protect the Mortgaged Property and the security interest and lien created hereby, plus interest on all of the foregoing, and plus all costs of the enforcement and collection of this Mortgage.

[Signature page follows]

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IN WITNESS WHEREOF, this Mortgage has been duly executed by the Borrower as of the day and year first above written.

1350 ASTOR COOPERATIVE APARTMENTS, INC., an Illinois corporation

By: Carol H. Graham

Name: _____

Title: President

ATTEST: Shirley D. Howard

Name: _____

Title: Treasurer

STATE OF ILLINOIS)

COUNTY OF COOK)

) SS

On this 1st day of October, 2003, before me personally came CAROL H. GRAHAM to me known, who, being by me duly sworn, did depose and say that he resides at 1350 North Astor Street, Chicago, Illinois; that he is the President of 1350 Astor Cooperative Apartments Inc., the corporation described in and which executed the within instrument; that the execution of the instrument by said corporation was duly authorized by said corporation and that he signed his name thereto by order of the Board of Directors of said corporation.

Shirley D. Howard



My Commission Expires: 10-22-2005

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Exhibit A

Legal Description

LOT 33 AND THE NORTH 24.2 FEET OF LOT 32 IN ASTOR'S ADDITION TO CHICAGO IN SECTION 3, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

Street Address: 1350 North Astor Street, Chicago, Illinois 60610

Tax Identification Number: 17-03-104-017-0000

Property of Cook County Clerk's Office