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THIS INSTRUMENT PREPARED BY
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Doc#: 0400603129
Eugene "Gene" Moore Fee: \$72.50
Cook County Recorder of Deeds
Date: 01/06/2004 12:51 PM Pg: 1 of 25

Katten Muchin Zavis Rosenman
525 West Monroe Street, Suite 1600
Chicago, Illinois 60661
Attn: Douglas L. Noren, Esq.

SPACE ABOVE THIS LINE FOR RECORDER'S USE

MORTGAGE,
ASSIGNMENT OF RENTS, FIXTURE FILING AND SECURITY AGREEMENT

COLLATERAL IS OR INCLUDES FIXTURES

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (herein "Instrument") is made as of December 31, 2003, and is given by the Mortgagor, NORTH/HALSTED, LLC, an Illinois limited liability company ("Borrower"), whose address is 656 West Randolph Street, Suite 400W, Chicago, Illinois 60661, to GREENWICH CAPITAL FINANCIAL PRODUCTS, INC, a corporation organized and existing under the laws of the state of Delaware, whose address is 600 Steamboat Road, Greenwich, County of Hartford, Connecticut 06830, together with its successors, assigns and transferees, (herein "Lender").

BORROWER, in consideration of the indebtedness herein recited, irrevocably mortgages, warrants, grants, conveys and assigns to Lender and its successors or substitutes, with power of sale and right of entry and possession for the benefit of Lender all of Borrower's fee interest in and to that certain property located in Cook County, Illinois, more particularly described on Exhibit "A" attached hereto and incorporated herein by reference for all purposes.

TOGETHER with all buildings, improvements and tenements now or hereafter erected on the property, and all heretofore or hereafter vacated alleys and streets abutting the property, and all easements, rights, appurtenances, rents (subject however to the assignment of rents to Lender herein and the Assignment of Rents), royalties, mineral, oil and gas rights and profits, water, water rights, and water stock appurtenant to the property, and all of Borrower's right, title and interest in and to all fixtures, machinery, equipment, engines, boilers, incinerators, building materials, appliances and goods of every nature whatsoever now or hereafter located in, on, or used, or intended to be used in connection with the property described on Exhibit "A" attached hereto, including, but not limited to, those for the purposes of supplying or distributing heating, cooling, electricity, gas, water, air and light, and all elevators, and related machinery and equipment, fire prevention and extinguishing apparatus, security and access control apparatus, plumbing, bath tubs, water heaters, water closets, sinks, ranges, stoves, refrigerators, dishwashers, disposals, washers, dryers, awnings, storm windows, storm doors, screens, blinds,

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shades, curtains and curtain rods, mirrors, cabinets, paneling, rugs, attached floor coverings, furniture, pictures, antennas, trees and plants, real property tax refunds, trade names, licenses, permits, Borrower's rights to insurance proceeds, unearned insurance premiums and choses in action; all of which, including any and all renewals, replacements and additions thereto, shall be deemed to be and remain a part of the real property covered by this Instrument; and all of the foregoing, together with said real property are herein referred to as the "Property";

TOGETHER with all of Borrower's right, title and interest in, to and under any and all leases now or hereinafter in existence (as amended or supplemented from time to time) and covering space in or applicable to the Property (hereinafter referred to collectively as the "Leases" and singularly as a "Lease"), together with all rents, earnings, income, profits, deposits, reserves, benefits and advantages arising from the Property and from said Leases and all other sums due or to become due under and pursuant thereto, it being intended and agreed that whenever and however generated, whether now or hereafter, Lender shall have a continuing security interest in, and/or lien upon, pursuant to 11 U.S.C. Section 552(b), on all of the foregoing, including, subject to the terms and conditions of this Instrument and the other Loan Documents, the immediate and continuing right to collect all rents, earnings, income, profits, deposits, reserves, fees, charges and accounts for the use and occupancy of the Property, and together with any and all guarantees of or under any of said Leases, and together with all rights, powers, privileges, options and other benefits of Borrower as lessor under the Leases, including, without limitation, the immediate and continuing right to receive and collect all rents, income, revenues, issues, profits, condemnation awards, insurance proceeds, moneys and security payable or receivable under the Leases or pursuant to any of the provisions thereof, whether as rent or otherwise, the right to accept or reject any offer made by any tenant pursuant to its Lease to purchase the Property and any other property subject to the Lease as therein provided and to perform all other necessary or appropriate acts with respect to such Leases as agent and attorney-in-fact for Borrower, and the right to make all waivers and agreements, to give and receive all notices, consents and releases, to take such action upon the happening of a default under any Lease, including the commencement, conduct and consummation of proceedings at law or in equity as shall be permitted under any provision of any Lease or by any law, and to do any and all other things whatsoever which Borrower is or may become entitled to do under any such Lease together with all accounts receivable, contract rights, franchises, interests, estates or other claims, both at law and in equity, relating to the Property, to the extent not included in rent, earnings and income under any of the Leases;

TOGETHER with all right, title and interest in, to and under any and all reserve, deposit or escrow accounts (the "Accounts") now or hereafter in existence made pursuant to any of the Loan Documents (as hereinafter defined) made between Borrower and Lender with respect to the Property, together with all income, profits, benefits and advantages arising therefrom, and (subject to the terms of the Loan Documents) together with all rights, powers, privileges, options and other benefits of Borrower under the Accounts, and together with the right to do any and all other things whatsoever which the Borrower is or may become entitled to do under the Accounts;

TOGETHER with all agreements, contracts, certificates, guaranties, warranties, instruments, franchises, permits, licenses, plans, specifications and other documents, now or

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hereafter entered into by or on behalf of Borrower, and all rights therein and thereto, pertaining to the use, occupancy, construction, management or operation of the Property and any part thereof and any improvements or respecting any business or activity conducted on the Property and any part thereof and all right, title and interest of Borrower therein, including the right to receive and collect any sums payable to Borrower thereunder and all deposits or other security or advance payments made by Borrower with respect to any of the services related to the Property or the operation thereof;

TOGETHER with all of Borrower's tradenames, trademarks, servicemarks, logos, copyrights, goodwill, books and records and all other general intangibles relating to or used in connection with the operation of the Property; and

TOGETHER with any and all proceeds resulting or arising from any of the foregoing (the Property, the Leases, the Accounts, and all other property, whether real, personal, tangible, or intangible, described above, and all proceeds thereof, may be referred to collectively as the "Collateral");

TO HAVE AND TO HOLD the Collateral hereby conveyed or mentioned and intended so to be, unto Lender, its successors, substitutes and assigns, forever;

PROVIDED ALWAYS, and this Instrument is upon the express condition that, if Borrower pays or causes to be paid to Lender the principal sum mentioned in the Note, the interest thereon and all other sums payable by Borrower to Lender as are secured hereby, in accordance with the provisions of the Note, the Loan Agreement, this Instrument and all other Loan Documents (all as defined herein) at the times and in the manner specified, without deduction, fraud or delay, and Borrower performs and complies with all the agreements, conditions, covenants, provisions and stipulations contained herein and in the other Loan Documents then this Instrument and the estate hereby granted shall cease and become void.

THIS INSTRUMENT SECURES TO LENDER (a) the repayment of the indebtedness evidenced by a certain Promissory Note (herein "Note") of even date herewith, executed by Borrower in favor of Lender in the principal sum of Twenty-Two Million Two Hundred Fifty Thousand and 00/100 Dollars (\$22,250,000.00), with interest thereon, with the balance of the indebtedness, if not sooner paid, due and payable on December ____, 2013 (the "Maturity Date") and all renewals, extensions and modifications thereof; (b) the performance of the covenants and agreements of Borrower contained in an Environmental Indemnity Agreement (herein so-called) by Borrower and J. Michael Drew and Daniel A. Lukas in favor of Lender, dated of even date herewith; (c) the payment of all other sums, with interest thereon, advanced by Lender in accordance herewith to protect the security of this Instrument; and (d) the performance of the covenants and agreements of Borrower herein contained, or contained in any other Loan Document (the Note, this Instrument, and all other documents or instruments given by Borrower or others and accepted by Lender for purposes of evidencing, securing, perfecting, or guaranteeing the indebtedness evidenced by the Note, together with any and all amendments, modifications, renewals, restatements and substitutions thereof from time to time, may be referred to as the "Loan Documents"). Without limitation of the foregoing, the following

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documents and instruments of even date herewith are Loan Documents: Loan and Security Agreement (the "Loan Agreement"), the Note, Assignment of Leases and Rents (the "Assignment of Rents"), Environmental Indemnity Agreement, Guaranty, the Account Control Agreement, and the Conditional Assignment of Management Agreement. All capitalized words used but not otherwise defined herein shall have the meanings ascribed thereto in the Loan Agreement.

Borrower covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, convey and assign the Property subject to any easements and restrictions listed in a schedule of exceptions to coverage in any title insurance policy insuring Lender's interest in the Property, the Property is unencumbered, and that Borrower will warrant and defend generally the fee interest in and to the Property against all claims and demands.

Borrower represents, warrants, covenants and agrees in favor of Lender as follows:

SECTION 1. PAYMENT OF PRINCIPAL AND INTEREST. Borrower shall promptly pay when due the principal of and interest on the indebtedness evidenced by the Note, any prepayment premiums and late charges provided in the Note or Loan Agreement and all other sums secured by this Instrument.

SECTION 2. FUNDS FOR TAXES, INSURANCE AND OTHER CHARGES. Lender may require Borrower to pay to Lender, in advance, such funds for taxes, assessments, insurance premiums, and other impositions and charges in connection with Borrower or the Property which Lender shall reasonably deem necessary to protect Lender's interests, in each case in accordance with the Loan Agreement.

SECTION 3. APPLICATION OF PAYMENTS. Except only as otherwise provided in the Loan Agreement, Lender may apply any payments received from or on behalf of Borrower to any of the obligations of Borrower then due under the Loan Documents, in any order determined by Lender.

SECTION 4. CHARGES; LIENS. Borrower shall pay when due and before delinquency, all taxes, assessments, insurance premiums, and other impositions and charges attributable to the Property, except only to the extent that Lender shall pay the same from reserves as expressly provided in the Loan Agreement. Borrower shall promptly furnish to Lender all notices of amounts due under this Section, and in the event Borrower shall make payment directly, Borrower shall promptly furnish to Lender receipts evidencing such payments. Except only for the liens and security interests in favor of Lender under this Instrument and the other Loan Documents, which Borrower shall pay and discharge in accordance with the Loan Documents, Borrower shall promptly discharge any lien encumbering all or any portion of or interest in the Property, irrespective of the priority of the same. Borrower shall pay, or cause to be paid, when due, the claims of all persons supplying labor or materials to or in connection with the Property.

SECTION 5. HAZARD INSURANCE. Borrower shall at all times keep the improvements

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now existing or hereafter erected on the Property insured against all losses, hazards, casualties, liabilities and contingencies as Lender shall require and in such amounts and for such periods as Lender shall require as set forth herein and in the Loan Agreement. Borrower shall purchase and maintain policies of insurance with respect to the Property in such amounts and covering such risks as shall be satisfactory to Lender, including, but not limited to, the following:

(a) Property damage insurance covering loss or damage to the Property caused by fire, lightning, hail, windstorm, explosion, hurricane (to the extent available), vandalism, malicious mischief, acts of terrorism and such other losses, hazards, casualties, liabilities and contingencies as are normally and usually covered by fire policies in effect where the Property is located endorsed to include all of the extended coverage perils and other broad form perils, including the standard "all risks" clauses. Such policy shall be in an amount not less than that necessary to comply with any coinsurance percentage stipulated in the policy, but not less than 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and shall contain a replacement cost endorsement. The deductible under such policy, if any, shall not exceed the lesser of \$10,000 or ten percent (10%) of the amount of the Loan. Further, if any of the improvements or the use of the Property shall at any time constitute legal nonconforming structures or uses under current zoning ordinances, such policy shall contain an "Ordinance or Law Coverage" or "Enforcement" endorsement providing demolition and increased cost of construction coverage.

(b) Broad form boiler and machinery insurance in an amount equal to the lesser of 100% of the full replacement cost of the building (without any deduction for depreciation) in which the boiler or similar vessel is located, or \$2,000,000. In addition, Lender may require a rider to such policy to extend such coverage to electrical machinery and equipment, air conditioning, refrigeration, and mechanical objects.

(c) If the Property is in an area prone to geological phenomena, including, but not limited to, sinkholes, mine subsidence or earthquakes, insurance covering such risks in an amount equal to 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and with a maximum permissible deductible equal to the lesser of \$25,000 or 10% of the face value of the policy.

(d) Flood insurance if the Property is in an area now or hereafter designated by the Federal Emergency Management Agency ("FEMA") as a Zone "A" & "V" Special Hazard Area, or such other Special Hazard Area if Lender so requires in its sole discretion. Such policy shall be in an amount equal to 100% of the full replacement cost of the improvements on the Property (without any deduction for depreciation), and shall have a maximum permissible deductible equal to \$3,000. Lender may require flood insurance coverage if the Property is located in FEMA Zone "B" if, at Lender's discretion, conditions warrant such coverage.

(e) Business interruption or rent loss insurance in an amount equal to the gross income or rentals from the Property for an indemnity period of eighteen months, such amount being adjusted annually.

(f) During any period of reconstruction, renovation or alteration of the

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Property in excess of five percent (5%) of the Note, a complete value, "All Risks" Builders Risk form or "Course of Construction" insurance policy in non-reporting form and in an amount satisfactory to Lender in Lender's sole discretion.

(g) Commercial General Liability insurance covering bodily injury and death in an amount not less than \$2,000,000 per occurrence and \$4,000,000 in the aggregate with no deductible, and an umbrella liability policy in the amount of \$25,000,000. If Lender permits such liability coverage to be written on a blanket basis, then such policy shall provide that the aggregate limit of insurance applies separately to the Property.

(h) If required by applicable state laws, worker's compensation or employer's liability insurance in accordance with such laws.

(i) Such other insurance and endorsements, if any, as Lender may reasonably require from time to time, or which are required by the Loan Documents

Each carrier providing any insurance, or portion thereof, required by this Section shall be licensed to do business in the jurisdiction or jurisdictions in which the Property is located, and shall have a claims paying ability rating of "AA" by "S&P", or such equivalent rating by a major rating agency. Borrower shall cause all insurance (except general public liability insurance) carried in accordance with this Section to be payable to Lender as a Lender and not as a coinsured, and, in the case of all policies of insurance carried by each lessee for the benefit of Borrower, if any, to cause all such policies to be payable to Lender as Lender's interest may appear. All premiums on insurance policies shall be paid in the manner provided in the Loan Agreement.

All insurance policies and renewals thereof (i) shall be in a form reasonably acceptable to Lender, (ii) shall provide for a term of not less than one year, (iii) shall provide by way of endorsement, rider or otherwise that such insurance policy shall not be canceled, endorsed, altered, or reissued to effect a change in coverage unless such insurer shall have first given Lender 30 days prior written notice thereof, (iv) shall include a standard mortgagee clause in favor of Lender, its successors and assigns and in form acceptable to Lender, (v) shall provide for claims to be made on an occurrence basis, except that boiler and machinery coverage may be made on an accident basis, and (vi) shall contain an agreed value clause updated annually (if the amount of coverage under such policy is based upon the replacement cost of the Property). All property damage insurance policies (except for flood and earthquake policies) must automatically reinstate after each loss.

Except for any umbrella liability policy, Lender shall have the right to hold the policies, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. At least 30 days prior to the expiration date of a policy, Borrower shall deliver to Lender a renewal policy in form satisfactory to Lender, together with evidence satisfactory to Lender of payment in full of the annual premium therefor.

In the event of any loss, Borrower shall give immediate written notice to the insurance carrier and to Lender. In the event of any loss in excess of \$100,000.00, Borrower

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hereby authorizes and empowers Lender 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 Lender's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this Section shall require Lender to incur any expense or take any action hereunder. Subject to the terms of the subsequent paragraph, Borrower further authorizes Lender, at Lender's option, (a) to hold the balance of such proceeds to be used to reimburse Borrower for the cost of reconstruction or repair of the Property or (b) subject to the immediately following paragraph, to apply such proceeds to the payment of the sums secured by this Instrument whether or not then due, in any order.

Lender shall not exercise Lender's option to apply insurance proceeds to the payment of the sums secured by this Instrument if all of the following conditions are met: (i) no Default or Event of Default shall have occurred and be continuing; (ii) Lender reasonably determines that there will be sufficient funds to restore and repair the Property to the Pre-existing Condition (as hereinafter defined); (iii) Lender reasonably agrees in writing, which agreement shall not be unreasonably withheld or delayed, that the rental income of the Property, after restoration and repair of the Property to the Pre-existing Condition, and insurance proceeds will be sufficient to meet all operating costs and other expenses, payments for reserves and loan repayment obligations (including any obligations under any permitted subordinate financing) relating to the Property and maintain a debt service coverage ratio at least equal to that existing at the origination of the Loan; (iv) Lender determines that restoration and repair of the Property to the Pre-existing Condition will be completed within one year of the date of the loss or casualty to the Property, but in no event later than six months prior to the Maturity Date; (v) less than fifty percent (50%) of the total floor area of the Improvements has been damaged, destroyed or rendered unusable as a result of such fire or other casualty; (vi) tenant leases demising in the aggregate at least fifty percent (50%) of the total rentable space in the Property and in effect as of the date of the occurrence of such fire or other casualty remain in full force and effect during and after the completion of the restoration and repair of the Property, and Borrower furnishes to Lender evidence satisfactory to Lender that Borrower shall operate its business at the Property after completion of such restoration or repair, notwithstanding the occurrence of any such fire or other casualty; and (vii) Lender is reasonably satisfied that the Property can be restored and repaired as nearly as possible to the condition it was in immediately prior to such casualty and in compliance with all applicable zoning, building and other laws and codes (the "Pre-existing Condition"). If Lender elects to make the insurance proceeds available for the restoration and repair of the Property, Borrower agrees that, if at any time during the restoration and repair, the cost of completing such restoration and repair, as determined reasonably by Lender, exceeds the undisbursed insurance proceeds, Borrower shall, immediately upon demand by Lender, deposit the amount of such excess with Lender, and Lender shall first disburse such deposit to pay for the costs of such restoration and repair on the same terms and conditions as the insurance proceeds are disbursed. If Borrower deposits such excess with Lender and if, after completion of the restoration or repair, any funds remain from the combination of insurance proceeds and the funds so deposited with Lender by Borrower, and if no Default or Event of Default shall have occurred and be continuing, then Lender shall disburse to Borrower such remaining funds

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provided that Lender shall not be obligated to disburse any amount in excess of the amount that Borrower shall have so deposited.

If the insurance proceeds are held by Lender to reimburse Borrower for the cost of restoration and repair of the Property, then Borrower shall restore the Property to the equivalent of its original condition or such other condition as Lender may approve in writing, and Borrower shall promptly begin such restoration and at all times thereafter diligently prosecute such restoration to completion. Lender may, at Lender's option, condition disbursement of said proceeds on Lender's approval, which approval shall not be unreasonably withheld or delayed, of such plans and specifications of an architect satisfactory to Lender, contractor's cost estimates, architect's certificates, waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments; and satisfaction of liens as Lender may reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the monthly installments due under the Note or otherwise under the Loan Documents, or change the amounts of such installments. Any amount of insurance proceeds remaining in Lender's possession after full and final payment and discharge of all obligations secured hereby shall be refunded to Borrower or otherwise paid in accordance with applicable law. If the Property is sold at foreclosure or pursuant to power of sale or if Lender acquires title to the Property, Lender shall have all of the right, title and interest of Borrower in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the Property prior to such sale or acquisition.

SECTION 6. PRESERVATION AND MAINTENANCE OF PROPERTY; LEASEHOLDS. Borrower (a) shall not commit waste or permit impairment or deterioration of the Property, ordinary wear and tear and damage by fire or other casualty excepted, (b) shall not abandon the Property, (c) subject to the provisions of Section 5 above, shall restore or repair promptly and in a good and workmanlike manner all or any part of the Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, in the event of any damage, injury or loss thereto, whether or not insurance proceeds are available to cover in whole or in part the costs of such restoration or repair, (d) shall keep the Property, including improvements, fixtures, equipment, machinery and appliances owned by Borrower thereon in good repair and shall replace fixtures, equipment, machinery and appliances on the Property when necessary to keep such items in good repair, (e) shall comply with all laws, ordinances, regulations and requirements of any governmental body applicable to the Property, (f) shall provide for professional management of the Property by a commercial property manager with substantial experience in managing properties of the applicable kind, and otherwise reasonably satisfactory to Lender, pursuant to a contract approved by Lender in writing, unless such requirement shall be waived by Lender in writing, (g) shall generally operate and maintain the Property in a manner to ensure maximum rentals as is consistent with the nature, character and reputation of the Property, and (h) shall give notice in writing to Lender of and, unless otherwise directed in writing by Lender, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Lender. Neither Borrower nor any tenant or other person shall remove, demolish or alter any improvement now existing or hereafter erected

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on the Property or any fixture, equipment, machinery or appliance in or on the Property except when incident to the replacement of fixtures, equipment, machinery and appliances with items of like kind or as allowed by a Lease or as otherwise consistent with the actions of a reasonable and prudent landlord.

SECTION 7. USE OF PROPERTY. Unless required by applicable law or unless Lender has otherwise agreed in writing, Borrower shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Borrower shall not subdivide the Property or initiate or acquiesce in a change in the zoning classification of the Property without Lender's prior written consent.

SECTION 8. PROTECTION OF LENDER'S SECURITY. Upon the occurrence of any Default, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Lender therein, including, but not limited to, eminent domain, insolvency, code enforcement, or arrangements or proceedings involving a bankrupt or decedent, Lender at Lender's option may make such appearances, disburse such sums and take such action as Lender deems reasonably necessary, in its sole discretion, to protect Lender's interest, including, but not limited to, (i) disbursement of reasonable attorney's fees, (ii) entry upon the Property to make repairs, subject to the rights of tenants under the Leases, (iii) procurement of satisfactory insurance as provided herein, (iv) the payment of any taxes and/or assessments levied against the Property and then due and payable, and (v) payment of any other amounts contemplated in any of the Loan Documents. Any amounts disbursed by Lender pursuant to this Section, with interest thereon, shall become additional indebtedness of Borrower secured by this Instrument. Unless Borrower and Lender agree to other terms of payment, such amounts shall be immediately due and payable upon demand and shall bear interest from the date of disbursement at the rate then applicable to principal under the Note unless collection from Borrower of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law. Nothing contained in this Section or elsewhere in any of the Loan Documents shall require Lender to incur any expense or take any action hereunder except as expressly provided herein or therein.

SECTION 9. INSPECTION. Lender may make or cause to be made reasonable entries upon and inspections of the Property including, but not limited to, phase I and/or phase II environmental audits and inspections, provided Lender uses commercially reasonable efforts not to disturb tenants under their Leases. Such environmental audits shall be at Lender's expense, except that Borrower shall reimburse Lender on demand for the same if (i) prior to authorizing such phase I, Lender has reasonable cause to be concerned that environmental contamination or a violation of environmental law may exist at or in connection with the Property, or (ii) such phase I or phase II reveals environmental contamination or a violation of environmental law may exist at or in connection with the Property, or (iii) an Event of Default shall have occurred, or (iv) as to a phase II only, the same shall have been recommended in any phase I.

SECTION 10. BOOKS AND RECORDS. Borrower shall keep and maintain at all times at Borrower's address stated herein, or such other place as Lender may reasonably approve in writing, materially complete and accurate books of accounts and records adequate to reflect correctly the results of the operation of the Property and copies of all written contracts, leases

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and other instruments which affect the Property. Such books, records, contracts, leases and other instruments shall be subject to examination and inspection at any reasonable time by Lender.

SECTION 11. CONDEMNATION. Borrower shall promptly notify Lender of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Borrower shall appear in and prosecute any such action or proceeding unless otherwise directed by Lender in writing. Borrower authorizes Lender, at Lender's option, as attorney-in-fact for Borrower, to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Lender.

Borrower authorizes Lender to apply such awards, payments, proceeds or damages, after the deduction of Lender's reasonable expenses incurred in the collection of such amounts, at Lender's option, either to restoration or repair of the Property or to payment of the sums secured by this Instrument, whether or not then due, in the order determined by Lender, with the balance, if any, to Borrower. Unless Borrower and Lender otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of the monthly installments due hereunder or under any of the Loan Documents or change the amount of such installments. Borrower agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Lender may reasonably require.

SECTION 12. BORROWER AND LIEN NOT RELEASED. From time to time, Lender may, at Lender's option, without giving notice to or obtaining the consent of Borrower, Borrower's successors or assigns or of any junior lienholder or guarantors, without liability on Lender's part and notwithstanding Borrower's breach of any covenant or agreement of Borrower in this Instrument, extend the time for payment of said indebtedness or any part thereof, reduce the payments thereon, release anyone liable on any of said indebtedness, accept a renewal note or notes therefor, release from the lien of this Instrument any part of the Property, take (with the consent of the party owning the same) or release other or additional security, reconvey any part of the Property, consent to any map or plan of the Property, consent to the granting of any easement, join in any extension or subordination agreement, and agree in writing with Borrower to modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable thereunder or otherwise modify the terms and time of payment of said indebtedness. Any actions taken by Lender pursuant to the terms of this Section shall not affect the obligation of Borrower or Borrower's successors or assigns to pay the sums secured by this Instrument and to observe the covenants of Borrower contained herein, shall not affect the guaranty of any person, corporation, partnership or other entity for payment of the indebtedness secured hereby, and shall not affect the lien or priority of lien hereof on the Property. Borrower shall pay Lender a reasonable service charge, together with such title insurance premiums and reasonable attorney's fees as may be incurred at Lender's option, for any such action if taken at

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Borrower's request.

SECTION 13. UNIFORM COMMERCIAL CODE SECURITY AGREEMENT. This Instrument is intended to be a security agreement pursuant to the Uniform Commercial Code for any of the items specified above as part of the Collateral which, under applicable law, may be subject to a security interest pursuant to the Uniform Commercial Code, and Borrower hereby grants Lender a security interest in said items. Borrower agrees that Lender may file this Instrument, or a reproduction thereof, in the real estate records or other appropriate index, as a financing statement for any of the items specified above as part of the Collateral. Any reproduction of this Instrument or of any other security agreement or financing statement shall be sufficient as a financing statement. In addition, Borrower agrees to execute and deliver to Lender, upon Lender's request, any financing statements, as well as extensions, renewals and amendments thereof, and reproductions of this Instrument in such form as Lender may require to perfect a security interest with respect to said items. Borrower shall pay all costs of filing such financing statements and any extensions, renewals, amendments and releases thereof, and shall pay all reasonable costs and expenses of any record searches for financing statements Lender may reasonably require. Without the prior written consent of Lender, Borrower shall not create or suffer to be created pursuant to the Uniform Commercial Code any other security interest in said items, including replacements and additions thereto. Upon an Event of Default, Lender shall have the remedies of a secured party under the Uniform Commercial Code and, at Lender's option, may also invoke the remedies provided herein or in any of the Loan Documents, or pursuant to any applicable law as to such items, subject to the limitations set forth in the Loan Documents. In exercising any of said remedies, Lender may proceed against the items of real property and any items of personal property specified above as part of the Collateral separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies provided herein or in any of the Loan Documents. This Instrument constitutes a fixture filing.

SECTION 14. LEASES OF THE PROPERTY. The leasing of all or any part of the Property is restricted in accordance with the Loan Agreement.

SECTION 15. TRANSFERS OF THE PROPERTY OR BENEFICIAL INTERESTS IN BORROWER. The sale or other transfer of all or any part of the Property or of interests in Borrower or its constituents is restricted in accordance with the Loan Agreement.

SECTION 16. FURTHER ENCUMBRANCES. The pledge or encumbrance of all or any portion of the Property or of interests in Borrower or its constituents is restricted in accordance with the Loan Agreement.

SECTION 17. GENERAL INDEMNITY. In addition to any other indemnification obligation set forth elsewhere in the Loan Documents, Borrower shall, at its sole cost and expense, protect, defend, indemnify, release and hold harmless the Lender and its shareholders, directors, officers, agents, employees, contractors, attorneys, servicers, and successors and assigns (the "Indemnified Parties") from and against any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs, expenses, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in

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settlement, or punitive damages, of whatever kind or nature (including, but not limited to reasonable attorneys' fees and other costs of defense) (the "Losses") imposed upon or incurred by or asserted against any Indemnified Parties and directly or indirectly arising out of or in any way relating to any one or more of the following (but excluding Losses arising out of the gross negligence or willful misconduct of any of the Indemnified Parties): (a) ownership of this Instrument or any of the Loan Documents, or ownership of the Property or any interest therein, or demand for or receipt of any Rents; (b) any amendment to, or restructuring of, any of the Loan Documents or the obligations evidenced or secured thereby (except any of the same required for a Secondary Market Transaction); (c) any and all lawful action that may be taken by Lender in connection with the enforcement of the provisions of any of the Loan Documents, whether or not suit is filed in connection with same, or in connection with Borrower, any guarantor or indemnitor and/or any member, partner, joint venturer or shareholder thereof becoming a party to a voluntary or involuntary federal or state bankruptcy, insolvency or similar proceeding; (d) any accident, injury to or death of persons or loss of or damage to property occurring in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (e) any use, nonuse or condition in, on or about the Property or any part thereof or on the adjoining sidewalks, curbs, adjacent property or adjacent parking areas, streets or ways; (f) any failure on the part of Borrower to perform or be in compliance with any of the terms of any of the Loan Documents; (g) performance of any labor or services or the furnishing of any materials or other property in respect of the Property or any part thereof; (h) the failure of any person to file timely with the Internal Revenue Service an accurate Form 1099-B, Statement for Recipients of Proceeds from Real Estate, Broker and Barter Exchange Transactions, which may be required in connection with this Instrument, or to supply a copy thereof in a timely fashion to the recipient of the proceeds of the transaction in connection with which this Instrument is made; (i) any failure of the Property to be in compliance with any applicable laws; (j) the enforcement by any Indemnified Party of the provisions of this Section in accordance with the terms hereof; (k) any and all claims and demands whatsoever which may be asserted against Lender by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants, or agreements contained in any Lease (except to the extent that the same arises by reason of events occurring after Lender shall have succeeded to the interests of Borrower); (l) the payment of any commission, charge or brokerage fee to anyone which may be payable in connection with the funding of the loan evidenced by the Note; or (m) any misrepresentation made by Borrower in any of the Loan Documents. Any amounts payable to Lender by reason of the application of this Section shall become immediately due and payable upon demand and shall bear interest at rate then applicable to principal outstanding under the Note.

SECTION 18. ASSIGNMENT OF RENTS. As part of the consideration for the indebtedness evidenced by the Note, Borrower hereby absolutely and unconditionally assigns and transfers to Lender all the rents and revenues of the Property, including those now due, past due, or to become due by virtue of any Lease or other agreement for the occupancy or use of all or any part of the Property, pursuant to the terms and conditions of the Assignment of Leases and Rents by Borrower to Lender of even date herewith.

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SECTION 19. DEFAULTS; ACCELERATION; REMEDIES.

Upon the occurrence of any Event of Default, Lender may, at Lender's option, declare all of the sums secured by this Instrument to be immediately due and payable without further demand, and may invoke the power of sale any and all other remedies permitted hereunder, under any of the Loan Documents, or pursuant to applicable law, subject to the limitations set forth in the Loan Documents and herein. Lender shall be entitled to collect from Borrower all costs and expenses incurred in pursuing such remedies, including, but not limited to, reasonable attorney's fees and costs of environmental reports, appraisals, documentary evidence, abstracts, and title reports.

Upon an Event of Default, Lender shall be entitled to the appointment of a receiver for the Property, without notice to Borrower or any other person or entity and Lender may in person, by agent or by a court-appointed receiver, regardless of the adequacy of Lender's security, enter upon and take and maintain full control of the Property in order to perform all acts necessary and appropriate for the operation and maintenance thereof including, but not limited to, the execution, cancellation or modification of Leases, the collection of all rents and revenues of the Property, the enforcement or fulfillment of any terms, condition or provision of any Lease, the making of repairs to the Property and the execution or termination of contracts providing for the management or maintenance of the Property, all on such terms as are deemed best to protect the security of this Instrument. In the event Lender elects to seek the appointment of a receiver for the Property upon an Event of Default, Borrower hereby expressly consents to the appointment of such receiver. Lender or the receiver shall be entitled to receive a reasonable fee for so managing the Property.

If the rents of the Property are not sufficient to meet the reasonable costs, if any, of taking control of and managing the Property and collecting the rents, any funds expended by Lender for such purposes shall become indebtedness of Borrower to Lender secured by this Instrument. Unless Lender and Borrower agree in writing to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof and shall bear interest from the date of disbursement at the rate stated in the Note unless payment of interest at such rate would be contrary to applicable law, in which event such amounts shall bear interest at the highest rate which may be collected from Borrower under applicable law.

Any entering upon and taking and maintaining of control of the Property by Lender or the receiver and any application of rents as provided herein shall not cure or waive any default hereunder or invalidate any other right or remedy of Lender under applicable law or provided herein.

Lender shall deliver to the purchaser at any foreclosure sale pursuant hereto a Lender's deed conveying the property so sold without any covenant or warranty, expressed or implied. The recitals in the Lender's deed shall be prima facie evidence of the truth of the statements made therein. Lender shall apply the proceeds of the sale in the following order: (a) to all costs and expenses of the sale, including, but not limited to, Lender's fees, reasonable attorney's fees and costs of title evidence; (b) to all sums secured by this Instrument in such

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order as Lender, in Lender's sole discretion, directs; and (c) the excess, if any, to the person or persons legally entitled thereto.

It is the express intention of Borrower and Lender that the rights, remedies, powers and authorities conferred upon the Lender pursuant to this Mortgage shall include all rights, remedies, powers and authorities that a mortgagor may confer upon a mortgagee under the Illinois Mortgage Foreclosure Law (735 ILCS § 5/15-1101 *et seq.*) (herein called the "IMFL") and/or as otherwise permitted by applicable law, as if they were expressly provided for herein. In the event that any provision in this Mortgage shall be inconsistent with any provision in the IMFL, the provisions of the IMFL shall take precedent over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can be construed in a manner consistent with the IMFL.

Without limiting the generality of the foregoing, all expenses incurred by Lender to the extent reimbursable under Sections 15-1510 and 15-1512 of the IMFL, whether incurred before or after any decree or judgment of foreclosure, and whether provided for in this Mortgage, shall be added to the indebtedness secured by this Mortgage or by the judgment of foreclosure.

The powers, authorities and duties conferred upon the Lender, in the event that the Lender takes possession of the Property, and upon a receiver hereunder, shall also include all such powers, authority and duties as may be conferred upon a mortgagee in possession or receiver under and pursuant to the IMFL. To the extent the IMFL may limit the powers, authorities and duties purportedly conferred hereby, such power, authorities and duties shall include those allowed, and be limited as proscribed by IMFL at the time of their exercise or discharge.

Borrower knowingly and voluntarily waives, on behalf of itself and all persons or entities now or hereafter interested in the Property, to the fullest extent permitted by applicable law including IMFL, (i) all rights under all appraisal, homestead, moratorium, valuation, exemption, stay, extension, redemption, single action, election of remedies and marshaling statutes, laws or equities now or hereafter existing, (ii) any and all requirements that at any time any action may be taken against any other person or entity and Borrower agrees that no defense based on any thereof will be asserted in any action enforcing this Mortgage, and (iii) any and all rights to reinstatement and redemption as allowed under Section 15-1601(b) of the IMFL or to cure any defaults, except such rights of reinstatement and cure as may be expressly provided by the terms of the Note, this Mortgage and the Loan Documents.

BORROWER HEREBY KNOWINGLY AND VOLUNTARILY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS OF REDEMPTION FROM SALE OR OTHERWISE UNDER ANY ORDER OR DECREE OF FORECLOSURE, DISCLAIMS ANY STATUS WHICH IT MAY HAVE AS AN "OWNER OF REDEMPTION" AS THAT TERM MAY BE DEFINED IN SECTION 15-1212 OF THE IMFL, PURSUANT TO RIGHTS HEREIN GRANTED, ON BEHALF OF BORROWER AND ALL PERSONS BENEFICIALLY INTERESTED THEREIN, AND EACH AND EVERY PERSON ACQUIRING ANY INTEREST IN, OR TITLE TO, THE PROPERTY DESCRIBED

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HEREIN SUBSEQUENT TO THE DATE OF THIS MORTGAGE, AND ON BEHALF OF ALL OTHER PERSONS TO THE FULLEST EXTENT PERMITTED BY THE PROVISIONS OF THE ILLINOIS STATUTES.

SECTION 20. ACCELERATION IN CASE OF BORROWER'S INSOLVENCY. The Loan Agreement includes provisions regarding acceleration upon certain bankruptcy events and similar occurrences pertaining to the Property, Borrower, and the constituents of Borrower.

SECTION 21. REMEDIES CUMULATIVE. Subject to the limitations set forth in the Loan Documents and herein, each remedy provided in this Instrument is distinct and cumulative to all other rights or remedies under this Instrument or afforded by law or equity, and may be exercised concurrently, independently, or successively, in any order whatsoever.

SECTION 22. WAIVER OF STATUTE OF LIMITATIONS. Borrower hereby waives the right to assert any statute of limitations as a bar to the enforcement of the lien of this Instrument or to any action brought to enforce the Note or any other obligation secured by this Instrument.

SECTION 23. WAIVER OF MARSHALLING. Notwithstanding the existence of any other security interest in the Property held by Lender or by any other party, Lender shall have the right to determine the order in which any or all of the Property shall be subjected to the remedies provided herein. Lender shall have the right to determine the order in which any or all portions of the indebtedness secured hereby are satisfied from the proceeds realized upon the exercise of the remedies provided herein. Borrower, any party who consents to this Instrument and any party who now or hereafter acquires a security interest in the Property and who has actual or constructive notice hereof hereby waives any and all right to require the marshalling of assets in connection with the exercise of any of the remedies permitted by applicable law or provided herein.

SECTION 24. RELEASE. Upon payment of all sums secured by this Instrument, Lender shall release this Instrument of record. Borrower shall pay Lender's reasonable fees for the preparation and recordation of such release of this Instrument.

SECTION 25. BORROWER'S ADDITIONAL COVENANTS. Borrower hereby covenants, agrees and undertakes as follows:

(a) Alterations of Property. Except to the extent that the same is permitted under the Loan Agreement, Borrower shall not undertake or commence any alterations of any improvements on the Property the cost of which is in excess of five percent of the then original principal amount of the Note, without the prior written consent of Lender.

(b) Further Assurances. Borrower shall from time to time, at the request of Lender, (i) promptly correct any defect, error or omission which may be discovered in the contents of this Instrument or in any other Loan Document or in the execution or acknowledgment thereof; (ii) execute, acknowledge, deliver and record and/or file such further documents or instruments (including, without limitation, further mortgages, security agreements, financing statements, continuation statements, assignments of rents or leases and environmental

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indemnity agreements) and perform such further acts and provide such further assurances as may be necessary, desirable or proper, in Lender's reasonable opinion, to carry out more effectively the purposes of this Instrument and such other instruments and to subject to the liens and security interests hereof and thereof any property intended by the terms hereof or thereof to be covered hereby or thereby, including specifically, but without limitation, any renewals, additions, substitutions, replacements, or appurtenances to the Property; provided that such documents or instruments do not monetarily or otherwise materially increase Borrower's liability or reduce Borrower's rights under the Loan Documents; and (iii) execute, acknowledge, deliver, procure, and file and/or record any document or instrument (including specifically, but without limitation, any financing statement) deemed advisable by Lender to protect the liens and the security interests herein granted against the rights or interests of third persons; provided that such documents or instruments do not monetarily or otherwise materially increase Borrower's liability or reduce Borrower's rights under the Loan Documents. Borrower will pay all reasonable costs connected with any of the foregoing in this paragraph.

(c) Mortgage Taxes. Borrower shall at any time any law shall be enacted imposing or authorizing the imposition of any tax upon this Instrument, or upon any rights, titles, liens or security interests created hereby, or upon the obligations secured hereby or any part thereof, immediately pay all such taxes; provided that, if such law as enacted makes it unlawful for Borrower to pay such tax, Borrower shall not pay nor be obligated to pay such tax, and in the alternative, Borrower may, in the event of the enactment of such a law, and must, if it is unlawful for Borrower to pay such taxes, prepay without penalty the obligations secured hereby in full within 60 days after demand therefor by Lender.

(d) Minerals. Borrower shall not permit any drilling or exploration for or extraction, removal or production of any mineral, natural element, compound or substance from the surface or subsurface of the Property regardless of the depth thereof or the method of mining or extraction thereof.

(e) Maintenance of Borrower Name, Structure. Borrower shall not change its name, identity, structure or employer identification number during the term of the Loan.

(f) Costs and Expenses. Except as limited or provided otherwise by the Loan Agreement, Borrower shall pay on demand all reasonable and bona fide out-of-pocket costs, fees and expenses and other expenditures, including, but not limited to, reasonable attorneys' fees and expenses, paid or incurred by Lender to third parties incident to this Instrument or any other Loan Document (including, but not limited to, reasonable attorneys' fees and expenses in connection with the negotiation, preparation and execution hereof and of any other Loan Document and any amendment hereto or thereto, any release hereof, any consent, approval or waiver hereunder or under any other Loan Document, the making of any advance under the Note, and any suit to which Lender is a party involving this Instrument or the Property) or incident to the enforcement of the obligations secured hereby or the exercise of any right or remedy of Lender under any Loan Document.

(g) Compliance with Laws. Borrower shall maintain and keep the Property in compliance with all applicable laws.

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SECTION 26. NOTICE. All notices under this Instrument shall be given in accordance with the Loan Agreement.

SECTION 27. GOVERNING LAW; SEVERABILITY. This Instrument, the Assignment of Leases, and the security interests (including in personal property) created hereunder and thereunder shall be governed by the laws of the State of Illinois, except that the security interests in Accounts and Account Collateral shall be governed by the laws of the State of New York or the state where the same is held, at the option of Lender. In the event that any provision of this Instrument or any other Loan Document conflicts with applicable law, such conflict shall not affect other provisions of this Instrument or the applicable Loan Document which can be given effect without the conflicting provisions, and to this end the provisions of this Instrument and the other Loan Documents are declared to be severable.

SECTION 28. TRANSFER OF LOAN. Lender may, at any time, sell, transfer or assign the Note, this Instrument and the Loan Documents, or any part thereof, and any or all servicing rights with respect thereto, or grant participations therein or issue mortgage pass-through certificates or other securities evidencing a beneficial interest in a rated or unrated public offering or private placement (the "Securities"). Lender may forward to each purchaser, transferee, assignee, servicer, participant, investor in such Securities or any rating agency rating such Securities (singularly, an "Investor," and collectively, the "Investors") and each prospective Investor, all documents and information which Lender now has or may hereafter acquire relating to the Loan and to Borrower, any guarantor, any indemnitors and/or the Property, whether furnished by Borrower, any guarantor, any indemnitors or otherwise, as Lender reasonably determines necessary or desirable. Borrower shall furnish and Borrower consents to Lender furnishing to such Investors or such prospective investors or rating agency any and all information concerning the Property, the Leases, the financial condition of Borrower, any guarantor and any indemnitor as may be reasonably requested by Lender, any Investor or any prospective Investor or rating agency in connection with any sale, transfer or participation interest.

SECTION 29. SUCCESSORS AND ASSIGNS BOUND. This Instrument and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Lender and their respective successors and assigns forever. The foregoing is subject to the restrictions on transferability of the Property and interests in Borrower and its constituents set forth in the Loan Agreement. Notwithstanding the foregoing, Lender shall have no liability under any of the Loan Documents for any matter arising after Lender transfers its interest in the Note to any successor (except that this sentence shall not excuse Lender's obligation as expressly set forth in the Loan Agreement pertaining to conversion of the Loan to a term loan). However, Lender shall continue to have the benefit of all rights having accrued under the Loan Documents theretofore, and all rights under all obligations of indemnification set forth in the Loan Documents for matters arising theretofore, then, and thereafter.

SECTION 30. FORBEARANCE BY LENDER NOT A WAIVER. Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of or preclude the exercise of any right or remedy. The acceptance by Lender of payment of any sum secured by this Instrument after the due date of such payment shall not be a

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waiver of Lender's right to either require prompt payment when due of all other sums so secured or to declare a default for failure to make prompt payment, subject to any notice or grace period expressly provided for in the Loan Agreement. The procurement of insurance or the payment of taxes or other liens or charges by Lender in accordance with the Loan Documents shall not be a waiver of Lender's right to accelerate the maturity of the indebtedness secured by this Instrument in accordance with the Loan Documents, nor shall Lender's receipt of any awards, proceeds or damages, whether as proceeds of insurance or condemnation awards or otherwise, operate to cure or waive Borrower's default in payment of sums secured by this Instrument.

SECTION 31. ESTOPPEL CERTIFICATE. Borrower shall within ten business days of a written request from Lender furnish Lender with a written statement, duly acknowledged, setting forth the sums secured by this Instrument and any right of set-off, counterclaim or other defense which exists against such sums and the obligations of this Instrument and attaching true, correct and complete copies of the Note, this Instrument and any other Loan Documents and any and all modifications, amendments and substitutions thereof.

SECTION 32. WAIVER OF JURY TRIAL. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT THE BORROWER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THE NOTE, THIS INSTRUMENT, ANY OTHER LOAN DOCUMENT, ANY OTHER AGREEMENT CONTEMPLATED TO BE EXECUTED IN CONNECTION HERewith, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY.

SECTION 33. MISCELLANEOUS.

(a) No Oral Change. No provision of this Instrument or any of the other Loan Documents may be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Borrower or Lender, except only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought.

(b) Liability. If Borrower consists of more than one person, the obligations and liabilities of each such person hereunder and under the other Loan Documents shall be joint and several.

(c) Captions. The captions and headings of the Sections, paragraphs, and other provisions of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

(d) Duplicate Originals; Counterparts. This Instrument and any of the Loan Documents may be executed in any number of duplicate originals and each duplicate original shall be deemed to be an original. This Instrument and any of the Loan Documents may be executed in multiple counterparts.

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(e) Number and Gender. Whenever the context may require, any pronouns used herein or in any of the Loan Documents shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa.

(f) Subrogation. If any or all of the proceeds of the Note have been used to extinguish, extend or renew any indebtedness heretofore existing against the Property, then, to the extent of the funds so used, Lender shall be subrogated to all of the liens securing the same.

(g) Entire Agreement. The Note, this Instrument and the other Loan Documents constitute the entire understanding and agreement between Borrower and Lender pertaining to the subject matter hereof and thereof, and supersede all prior written or oral understandings and agreements between Borrower and Lender with respect thereto, including the prior agreements evidenced by any application or commitment issued in connection with this transaction. Borrower hereby acknowledges that, except as incorporated in writing in the Loan Documents, there are not, and were not, and no persons are or were authorized by Lender to make, any representations, understandings, stipulations, agreements or promises, oral or written, with respect to the transaction which is the subject of the Loan Documents, except only to the extent expressly set forth in the Loan Documents.

(h) Action through Agents. In exercising any rights hereunder or under any of the Loan Documents or taking any actions provided for herein or therein, Lender may act through its employees, agents or independent contractors as authorized by Lender.

SECTION 34. LIMITATION OF LIABILITY. The obligations of Borrower hereunder are subject to limitations on recourse as provided in Article 12 of the Loan Agreement.

SECTION 35. AGRICULTURAL OR RESIDENTIAL REAL ESTATE. Borrower 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 Section 15-1201 of the IMFL) or residential real estate (as defined in Section 15-1219 of the IMFL).

SECTION 36. OPEN-END MORTGAGE; MAXIMUM PRINCIPAL AMOUNT. This Mortgage is an open-end mortgage, and shall secure the payment of any amounts advanced from time to time under the Loan Documents, or under other documents stating that such advances are secured hereby. This Mortgage also secures any and all future obligations and indebtedness arising under or in connection with this Mortgage, which future obligations and indebtedness shall have the same priority as if all such future obligations and indebtedness were made on the date of execution hereof. Nothing in this Section or in any other provision of this Mortgage shall be deemed an obligation on the part of Lender to make any future advances of any sort. In no event shall the total amount of loan proceeds disbursed plus such additional amounts exceed one hundred fifty percent (150%) of the aggregate, original principal amounts of the Note.

SECTION 37. PROTECTIVE ADVANCES. (a) All advances, disbursements and expenditures made by Lender before and during a foreclosure, and before and after judgment of foreclosure, and at any time prior to sale, and, where applicable, after sale, and during the

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pendency of any related proceedings, for the following purposes, in addition to those otherwise authorized by the Mortgage or by the IMFL (collectively "Protective Advances"), shall have the benefit of all applicable provisions of the IMFL, including those provisions of the IMFL hereinbelow referred to:

- (i) all advances by Lender in accordance with the terms of the Mortgage to: (a) preserve or maintain, repair, restore or rebuild the improvements upon the Property; (b) preserve the lien of the Mortgage or the priority thereof; or (c) enforce the Mortgage, each as referred to in Subsection (b)(5) of Section 5/15-1302 of the IMFL;
- (ii) payments by Lender of: (a) when due, installments of principal, interest or other obligations in accordance with the terms of any senior mortgage or other prior lien or encumbrance; (b) when due installments of real estate taxes and assessments, general and special and all other taxes and assessments of any kind or nature whatsoever which are assessed or imposed upon the Property or any part thereof; (c) other obligations authorized by the Mortgage; or (d) with court approval, any other amounts in connection with other liens, encumbrances or interests reasonably necessary to preserve the status of title, as referred to in Section 5/15-1505 of the IMFL;
- (iii) advances by Lender in settlement or compromise of any claims asserted by claimants under senior mortgages or any other prior liens;
- (iv) attorneys' fees and other costs incurred: (a) in connection with the foreclosure of the Mortgage as referred to in Sections 1504(d)(2) and 5/15-1510 of the IMFL; (b) in connection with any action, suit or proceeding brought by or against the Lender for the enforcement of the Mortgage or arising from the interest of the Lender hereunder; or (c) in the preparation for the commencement or defense of any such foreclosure or other action related to the Mortgage or the Property;
- (v) Lender's fees and costs, including attorneys' fees, arising between the entry of judgment of foreclosure and the confirmation hearing as referred to in Subsection (b)(1) of Section 5/15-1508 of the IMFL;
- (vi) expenses deductible from proceeds of sale as referred to in subsections (a) and (b) of Section 5/15-1512 of the IMFL;
- (vii) expenses incurred and expenditures made by Lender for any one or more of the following: (a) if the Property or any portion thereof constitutes one or more units under a condominium declaration, assessments imposed upon the unit owner thereof which are required to be paid; (b) if Borrower's interest in the Property is a leasehold estate under a lease or sublease, rentals or other payments required to be made by the lessee under the terms of the lease or sublease; (c) premiums for casualty and liability insurance paid by Lender whether or not

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Lender or a receiver is in possession, if reasonably required, in reasonable amounts, and all renewals thereof, without regard to the limitation to maintaining of existing insurance in effect at the time any receiver or Lender takes possession of the Property imposed by Subsection (c)(l) of Section 5/15-1704 of the IMFL; (d) repair or restoration of damage or destruction in excess of available insurance proceeds or condemnation awards; (e) payments required or deemed by Lender to be for the benefit of the Property or required to be made by the owner of the Property under any grant or declaration of easement, easement agreement, agreement with any adjoining land owners or instruments creating covenants or restrictions for the benefit of or affecting the Property; (f) shared or common expense assessments payable to any association or corporation in which the owner of the Property is a member in any way affecting the Property; (g) if the loan secured hereby is a construction loan, costs incurred by Lender for demolition, preparation for and completion of construction, as may be authorized by the applicable commitment, loan agreement or other agreement; and (h) pursuant to any lease or other agreement for occupancy of the Property for amounts required to be paid by Borrower.

(b) All Protective Advances shall be so much additional indebtedness secured by the Mortgage, and shall become immediately due and payable without notice and with interest thereon from the date of the advance until paid at the rate due and payable after a default under the terms of the Notes.

(c) The Mortgage shall be a lien for all Protective Advances as to subsequent purchasers and judgment creditors from the time the Mortgage is recorded pursuant to Subsection (b)(l) of Section 5/15-1302 of the IMFL.

(d) All Protective Advances shall, except to the extent, if any, that any of the same is clearly contrary to or inconsistent with the provisions of the IMFL, apply to and be included in:

(i) determination of the amount of indebtedness secured by the Mortgage at any time;

(ii) the indebtedness found due and owing to the Lender in the judgment of foreclosure and any subsequent supplemental judgments, orders, adjudications or findings by the court of any additional indebtedness becoming due after such entry of judgment, it being agreed that in any foreclosure judgment, the court may reserve jurisdiction for such purpose;

(iii) determination of amount deductible from sale proceeds pursuant to Section 5/15-1512 of the IMFL;

(iv) application of income in the hands of any receiver or Lender in possession; and

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(v) computation of any deficiency judgment pursuant to Section 5/15-1511 of the IMFL, subject to Section 11.16 of the Loan Agreement.

(Signature on Following Page)

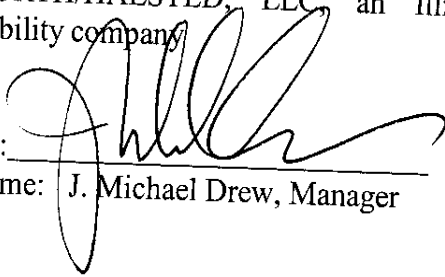
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IN WITNESS WHEREOF, Borrower has executed this Instrument or has caused the same to be executed by its representatives thereunto duly authorized.

BORROWER:

NORTH/HALSTED, LLC an Illinois limited liability company

By: 
Name: J. Michael Drew, Manager

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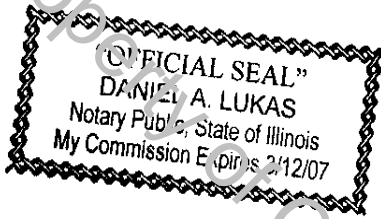
STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this 17th day of December, 2003,
by J. Michael Drew, as Manager of North/Halsted, LLC.

My commission expires:


NOTARY PUBLIC

[SEAL]



Proprietary Cook County Clerk's Office

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EXHIBIT A LEGAL DESCRIPTION

A TRACT OF LAND SITUATED IN THE WEST 1/2 OF THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; BOUNDED ON THE WEST BY THE EAST LINE, OF NORTH HALSTED STREET; ON THE NORTH BY THE SOUTH LINE OF WEST NORTH AVENUE; ON THE SOUTHWEST BY THE NORTHEASTERLY LINE OF NORTH CLYBOURN AVENUE; ON THE SOUTHEAST BY THE NORTHWESTERLY LINE OF WEST WEED STREET AND ON THE EAST BY THE WEST AND SOUTHWESTERLY LINE OF THE RIGHT OF WAY OF THE CHICAGO TRANSIT AUTHORITY AND THE CONNECTION OF SAID RIGHT OF WAY LINE ACROSS THE EAST WEST ALLEY SOUTH OF AND PARALLEL TO WEST NORTH AVENUE, SAID TRACT INCLUDES ALL ALLEYS WITHIN ITS BOUNDARIES TOGETHER WITH THE FOLLOWING DESCRIBED LOTS: LOTS 1 THROUGH 6 IN THE SUBDIVISION OF LOT 157 AND LOTS 6 THROUGH 13 (EXCEPT THE EAST 16 FEET OF SAID LOT 6) IN THE SUBDIVISION OF LOT 158, LOT 13 AND LOTS 17 THROUGH 23 IN THE SUBDIVISION OF LOT 156; LOTS 1 AND 2 IN THE SUBDIVISION OF SUB-LOTS 14, 15 AND 16 IN THE SUBDIVISION OF LOT 156; LOT 2 (EXCEPT THAT PART CONVEYED TO THE NORTHWEST ELEVATED RAILROAD BY DEED RECORDED MAY 16, 1913 AS DOCUMENT 5186265) IN THE SUBDIVISION OF LOT 24 IN THE SUBDIVISION OF LOT 156, ALL IN THE SUBDIVISION OF LOTS 156, 157, 158 AND SUB-LOT 8 OF LOT 159 IN BUTTERFIELD'S ADDITION TO CHICAGO IN THE NORTHWEST 1/4 OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED SEPTEMBER 2, 1863 IN BOOK 162 OF MAPS AT PAGE 11 AS DOCUMENT 70119, (EXCEPT THEREFROM THE NORTH 14 FEET OF THE EAST AND WEST 18 FOOT VACATED ALLEY WHICH ACCRUES TO LOTS 4 AND 5 AND THE EAST 16 FEET OF LOT 6 IN THE SUBDIVISION OF LOT 158, AND THAT PART OF SAID EAST AND WEST 18 FOOT VACATED ALLEY AND THAT PART OF THE 18 FOOT VACATED ALLEY EXTENDING NORTHEASTERLY AND SOUTHWESTERLY WHICH ACCRUES TO THAT PART OF LOT 2 IN THE SUBDIVISION OF LOT 24 IN THE SUBDIVISION OF LOT 156 CONVEYED TO THE NORTH WEST ELEVATED RAILROAD BY DEED RECORDED MAY 16, 1913 AS DOCUMENT 5186265 IN COOK COUNTY, ILLINOIS.

Permanent Index Numbers: 17-04-100-001; 002; 003; 004; 005; 013; 014; 015; 016; 017; 018; 021; 022; 023; 024; 027; 028; 032; 033; 034; 035; 036; 037.

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