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DANTELE DEVELOPMENT COMPANY
CONSTRUCTION LOAN AGREEMENT
4-175-4301 S. OAKENWALD, CHICAGO, IL

This Construction Loan ("agreement") is made as of November 14, 1994 by and between Dantele Development Company (referred to herein as "Borrower"), and Highland Community Bank, (the "Bank").

RECITALS:

A. Borrower is the owner of that parcel of real estate, legally described on Exhibit "A" attached hereto (the "Land").

B. Borrower intends to construct a single family home on the Land, such improvements, together with all fixtures, parking areas, driveways, landscaping, fittings, appliances, apparatuses, machinery, furnishings, equipment, furniture, supplies, and other property of any kind whatsoever and any replacements thereof affixed to the Land or the improvements thereon or used in any way in connection with the operation of the Land or the improvements thereon are hereinafter collectively referred to as the "Project". The Land and the Project are sometimes hereinafter collectively referred to as the "Premises."

C. The Project will be constructed and equipped in accordance with the final plans and specifications and working drawings for construction of the Project (collectively, the "Plans and Specifications") prepared by Roy Dawson P.C. (the "Architect") pursuant to the terms of an agreement dated _____ (the "Architect's Agreement").

D. The Project will be constructed and equipped pursuant to a construction contract (the "Construction Contract") with Borrower as contractor. For purposes of this Agreement, "Completion of the Project" shall mean completion of the construction of the entire Project, with the sole exceptions of minor items of a "punch-list" nature specifically identified on the Inspector's certificate of completion (defined below) in accordance with the approved Plans and Specifications to the satisfaction of the Bank and the Inspector in accordance with all applicable laws (including, but not limited to, zoning and building codes) and governmental requirements of any kind; and delivery to the Bank of each of the items described in Section 4(c) with respect to conditions precedent to Final Advance (defined below). For purposes of this Agreement, the "Construction Period" shall mean the period commencing on the date hereof and ending on the date on which construction of the Project is completed in accordance with the terms hereof.

E. For purposes of financing the construction of the Project, Borrower has applied for financing in the amount of up to One Hundred Eighty Thousand and no/100 (\$180,000) and Bank has issued its commitment dated November 7, 1994 to loan said funds to Borrower (the "Commitment"). All amounts shall be disbursed in accordance with the

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terms and conditions hereinafter set forth. All loans and disbursements made by the Bank pursuant to this Agreement are collectively referred to herein as the "Loan."

F. Payment of the liabilities of Borrower hereunder, are guaranteed by Gloria Carney Shenley and Richard W. Shenley (collectively referred to as "Guarantors").

G. The parties deem it to be in their mutual best interest to set forth their mutual understandings and obligations by this Loan Agreement.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants, conditions and agreements herein contained, the parties hereto agree as follows:

Section 1. REPRESENTATIONS AND WARRANTIES OF BORROWER.

(a) Specific Representations and Warranties. To induce the Bank to enter into this Agreement and to make the Loan to the Borrower, Borrower hereby represents and warrants to the Bank as follows:

- (i) Recitals. Each of the foregoing Recitals A through and including F1 is incorporated herein by reference, and is true and correct in its entirety.
- (ii) Compliance. Neither the Premises nor its present use, occupancy and operation nor the construction of the Project pursuant to the Plans and Specifications, nor the use, occupancy and operation of the Project when completed, violates or conflicts with or will then violate or conflict with any applicable statute, law, regulation, rule, ordinance or order of any kind whatsoever (including but not limited to any zoning or building laws or ordinances, any noise abatement, occupancy, or environmental protection laws or regulations, or any rules, regulations or orders of any other governmental agency), or any building permit or any condition, privilege, license, easement, right-of-way, covenant, restriction or grant (whether or not of record) made for the benefit of or affecting the Premises or any part thereof; provided, however, that with respect to any statute, law, regulation, rule, ordinance or order not in existence or effect as of the date hereof, the preceding portion of this Section 1(a)(ii) shall be deemed to be a covenant by Borrower to so comply at the time any such statute, law, regulation, rule, ordinance exists or becomes effective. Borrower hereby agrees to indemnify and hold harmless the Bank, and its officers, directors, partners, employees, agents and participants, if any (collectively, the "Indemnitites") against any and all liability, loss, claim, damage or expense (including attorneys' fees) to which any of the Indemnitites may become subject insofar as they may arise out of or are based upon any breach of the warranties and covenants contained in this Section 1(a)(ii).

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- (iii) Power and Authority. Borrower is an Illinois corporation duly formed, validly existing and in good standing under the laws of the State of Illinois and is qualified to do business in and is in good standing under the laws of the State of Illinois, and has full power and authority to own its property (including the Premises) and to execute, deliver and perform all of its obligations under this Agreement, the Loan Documents, and all other documents to be executed and delivered by Borrower pursuant to this Agreement in accordance with their respective terms to borrow the sums provided to be borrowed hereunder and to mortgage and encumber its property as provided hereby. All of such execution, delivery, performance, borrowing and encumbering have been duly authorized by all necessary corporate and shareholder actions of Borrower.
- (iv) Binding Agreement. This Agreement constitutes, and the other Loan Documents and other documents to be executed and delivered pursuant to this Agreement, when executed and delivered pursuant hereto, will constitute, the duly authorized, valid and legally binding obligations of the party or parties (other than the Bank) executing the same and will be enforceable by the Bank strictly in accordance with their respective terms (subject only to the effect of bankruptcy, insolvency, reorganization, readjustment of debt, or other similar laws of general application relating to or affecting the enforcement of creditors' rights generally).
- (v) No Violation of Agreements, etc. Borrower is not in default under any agreement to which it is a party, the effect of which might adversely affect the performance by Borrower of any of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement or any other Loan Document. Neither the execution and delivery of this Agreement nor the other Loan Documents, nor the consummation of the transactions herein or therein contemplated, nor the performance of the duties and obligations hereunder or thereunder, nor compliance with the terms and provisions hereof or thereof, does or will violate any provisions of any law or applicable statute, ordinance, rule, regulation, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency or instrumentality, or does or will conflict with or be inconsistent with, or will result in any breach of, any of the terms, covenants, conditions or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, lease, instrument, document, agreement or contract of any kind which creates, represents, evidences or provides for any lien, charge or encumbrance upon any of the assets of Borrower, or any other indenture, mortgage, deed of trust, lease, note, instrument, document, agreement or contract of any kind to which Borrower is a party or by which Borrower or any of the property of Borrower may be bound.
- (vi) No Litigation. There are no actions, suits or proceedings of any kind pending or, to the knowledge of the Borrower, threatened against or affecting the Guarantor (or any one of them if more than one) of the Premises before any

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court or any governmental, administrative, regulatory, adjudicatory or arbitrational body or agency of any kind, the pendency of which or an adverse determination in which might adversely affect the financial condition, continued operations or property of the Borrower or performance by Borrower of any of its obligations pursuant to and as contemplated by the terms and provisions of this Agreement or any of the other Loan Documents, or involving the validity, enforceability or priority of the Mortgage (defined below), or the completion of the construction of the Project in accordance with the approved Plans and Specifications, or the proposed use, occupancy and operation of the Project or the performance by the Bank of its obligations hereunder.

- (vii) **Utilities.** All utility services necessary for the construction of the Project, and the use, occupancy and operation of the Project for its intended purposes (including, without limitation, water, storm and sanitary sewer, electric and telephone facilities) are available at the Land and are currently available to the Project or written permission has or will be obtained from the applicable utilities or municipality, as required, to tie the Project into each of such services without any conditions having to be satisfied other than payment of reasonable tap-on fees. All consents, permits, variances or grants of any kind with respect to such utility services have been or will be obtained, which are necessary for the completion of the Project, and for the use, occupancy and operation of the Project, and which may, under applicable law and the rules and regulations of the respective utility companies or municipalities involved, be obtained with respect to the Project.

- (viii) **Financial Statements.** The financial statements of Borrower and Guarantor and the operating projections of the Project heretofore delivered to Bank, are true and correct in all respects, have been prepared in accordance with generally accepted accounting principles consistently applied, and fully and fairly present the financial condition and results of operation of the subjects thereof, respectively as of the date shown thereon. As of the date of the First Advance hereunder (defined below), no adverse changes will have occurred in the financial condition of any of the subject thereof since the date of such statement, and none of the subjects thereof has made any borrowings or committed to make any borrowings or committed to make any borrowings of any kind except as shown therein, other than the Loan provided for in this Agreement and any other loan approved in writing by the Bank.

- (ix) **Material Facts.** Neither this Agreement nor any document, financial statement, credit information, certificate or statement required herein to be furnished by the Borrower, or which has been or may hereafter be furnished by the Borrower, to the Bank contains or will contain any material omission or any untrue or misleading statement, or is in any respect materially misleading.

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- (x) Approval of Project Budget. The Borrower has submitted to the Bank a construction budget (the "Project Budget"), attached hereto as Exhibit B showing the total cost of development, financing and construction of the Project. The Project Budget shall not be changed without Bank's prior written consent. The Project Budget includes an interest reserve sufficient to pay the interest which is projected to accrue under the terms hereof.
- (xi) Brokerage Fees. No brokerage fees or commissions of any kind are payable in connection with the Loan to be disbursed by the Bank. Borrower shall indemnify the Bank and hold the Bank harmless from and against all loss, cost, liability or expense incurred as a result of any claim for a broker's or finder's fee against the Bank by any person or entity in connection with any of the transactions herein contemplated. The Bank hereby represents and warrants that it has not dealt with any brokers or finders in connection with any of the transactions herein contemplated.
- (xii) No Unpaid Bills. There are no unpaid bills (except for those which will be paid in the ordinary course of business within 30 days after the date hereof) for labor, materials, supplies or services furnished to the Premises; and no claim of lien affecting the Premises has been served upon Borrower or Contractor or filed in the public records of Chicago, Illinois.
- (xiii) Fee Ownership. Trustee is the owner in fee simple of, and hold good and marketable title to the Premises subject only to taxes which are not yet due and payable.

(b) Representations to be Continuing. Borrower further represents and warrants to the Bank, with respect to the foregoing representations, warranties and covenants made by Borrower that all of the foregoing representations and warranties (including the Recital representations and warranties) are, to the extent required to be hereunder on the date hereof, true as of the date of this Agreement, and will, to the extent required to be hereunder effective and/or continuing at any future date in accordance with the terms hereof, continue to be true as of each such date and thereafter, at the dates of all subsequent Advances and at all times until all indebtedness hereunder and under the other Loan Documents has been paid in full, except as expressly set forth herein. By submitting to the Bank any Request for Advance (defined below), the Borrower shall be deemed to have restated each of such applicable representations, warranties and covenants as of the date of such Request for Advance.

(c) Acknowledgment of Bank's Reliance. All representations, warranties, covenants and agreements made herein or in any certificate or other document heretofore or hereafter delivered to the Bank by or on behalf of Borrower or Guarantor (or any one or more if more than one) pursuant to or with respect to this Agreement or the Loan made hereunder shall be deemed to have been relied upon by the Bank notwithstanding any investigation

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heretofore or hereafter made by (the "Bank" or) on its behalf, and shall survive the making of any or all of the Advances contemplated hereby and shall continue in full force and effect until the Loan is repaid in full.

Section 2. THE LOAN.

(a) Loan Amount. Subject to and upon the terms and conditions set forth in this Agreement, the Bank, in its sole and absolute discretion, may lend to Borrower, from time to time such sums as may be requested by Borrower, the total of which shall not exceed \$100,000. In this Agreement, all loans and disbursements made by the Bank pursuant to this Agreement are collectively called the Loan, and each disbursement made by the Bank is herein called an "Advance."

(b) Advances.

- (i) First Advance. The first Advance (the "First Advance") will be made on the date hereof to be utilized by Borrower for the purpose of acquiring the Property and construction costs, all as more fully described in the Project Budget. The balance of the Loan will be available for disbursement, if at all, as construction is completed. The First Advance will be made through an escrow account established with the Title Company (defined below) pursuant to documentation satisfactory in form and substance to the Bank, all of the expenses of which will be paid by Borrower.
- (ii) Subsequent Advances. Advances of the Loan after the First Advance ("Subsequent Advances") may be made periodically by the Bank upon submission of a Request for Advance by Borrower to or for the account of Borrower in accordance with the Project Budget, less Reserves, except for the Final Advance (defined below). It is presently contemplated that (except for Advances made by the Bank to the Bank as payment of Loan Fees, reimbursement for its costs and expenses, or interest as provided for herein), as a general matter all Advances will be made through a construction loan disbursement escrow account (the "Construction Disbursement Escrow") to be maintained at the Title Company pursuant to documentation satisfactory in form and substance to the Bank, all of the expenses of which will be paid by Borrower.
- (iii) Advances Authorized by Borrower. In addition to Advances made pursuant to Requests for Advances made by Borrower from time to time, Borrower hereby irrevocably authorizes the Bank to disburse Loan funds to pay: (A) interest which is accrued but unpaid and which is due and payable pursuant to the terms of the Note on the first day of each month until the Loan is

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with the negotiation, preparation, execution, administration, enforcement or collection of the Loan or any of the Loan Documents and amounts necessary or appropriate to complete the construction of the Project in accordance with the approved Plans and Specifications); (C) for any amounts necessary or appropriate to protect the lien or priority of the Mortgage or of any of the other Loan Papers or to pay, settle, compromise or contest any lien or claim of lien against the Premises or any part thereof; and (D) for any and all other costs or expenses incurred by Borrower or the Bank (including, without limitation, expenses and reasonable fees of the Bank's attorneys in connection with the Loan. The execution of this Agreement by Borrower shall, and hereby does, constitute an irrevocable direction and authorization to the Bank so to disburse such funds described in the foregoing paragraph and to treat such Advances as money loaned pursuant to this Agreement and as indebtedness evidenced by the Note.

(c) Limitations. Notwithstanding any other provision of this Agreement, in no event shall the Bank be required to make any Advance hereunder. Bank shall not make any Advance if (i) the Bank determines that such Advance will reduce the undischursed amount of the Loan (after setting aside the Reserve, all other reserves and retainages of whatever nature held by the Bank) below the amount necessary to pay in full the unpaid costs as set forth in the Project Budget in accordance with the approved Plans and Specifications, (ii) any Event of Default or Unmatured Event of Default (defined below) has occurred and is continuing, (iii) on the date of such Advance there is an existing material breach of any representation, warranty or covenant contained herein, or (iv) Borrower has not complied with or satisfied any condition or covenant contained herein or any other Loan Document.

(d) Conditions To All Advances. The following are conditions precedent (in addition to other conditions provided elsewhere in this Agreement) to making each Advance hereunder (except for Advances to pay accrued but unpaid interest hereunder), provided that satisfaction of such conditions precedent shall not require Bank to make any Advance hereunder. All Advances made hereunder, shall be made in Lender's sole and exclusive discretion, under such terms and conditions as Lender shall deem appropriate or acceptable.

- (i) Notice. The Bank shall be given at least five (5) full business days' prior written notice of a Request for Advance, which request shall in each case specify the amount of the proposed Advance and shall in each case be signed by Borrower.
- (ii) Place of Disbursement. Each Advance hereunder shall be made at the office of the Bank, and at the Bank's option shall be disbursed (A) to the credit of Borrower's account to be maintained at the Bank, (B) to the order of Borrower, (C) to the Title Company for the account of Borrower under the terms of a Construction Escrow, (D) directly to the Bank itself for its own account, or (E) to any other person necessary or appropriate to accomplish any of the purposes set out in this Agreement.

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- (iii) Monthly Advances. In no event shall Bank approve more than one Request for Advance in any calendar month, provided that the first two draws may be within the same calendar month.
- (iv) Increase in Principal. Each Advance by Bank will increase the outstanding principal balance of the Note by the amount of the Advance.
- (v) No Casualty. The Premises shall not have suffered any damage by fire or other casualty.
- (vi) Continuing Representations. All representations and warranties set forth herein shall be true and correct as of the date of the respective Advance.

(e) Maturity Date. Subject to Bank's right to accelerate the payments hereunder in accordance with the terms of the Note, the unpaid principal balance of all advances, interest, penalties and all other sums due and payable pursuant to the terms hereof or the other Loan Documents shall be due and payable June 1, 1995 (the "Maturity Date").

(f) Application of Payments. Notwithstanding anything to the contrary contained herein or in any other Loan Document, Mortgagee shall have the sole, exclusive and unreviewable right unilaterally (and without notice to or the consent of any person) to allocate any and all payments which may be received by or tendered to Mortgagee made by the Mortgagor or any other person (including, without limitation, any guarantor now or hereafter existing) at any time or from time to time and which relate in any way to the sums advanced under the Note, hereunder or any of the other Loan Documents in any order of priority as Holder, in its sole and exclusive discretion determine to: (i) the payment of any costs and expenses incurred by Holder hereof to enforce any rights hereunder or under the other Loan Documents or to preserve or protect the Property, (ii) accrued by unpaid interest, penalties and late payment fees, (iii) principal.

Section 3. THE LOAN DOCUMENTS. Borrower or Guarantor, as applicable, shall execute and deliver or cause to be executed and delivered to the Bank, as evidence of or security for the payment of the Loan, all Advances made under this Agreement and all other liabilities and obligations described in this Agreement, the following documents (all of which, together with all other instruments, guaranties, letters of credit, security agreements, and other documents or agreements of any kind furnished at any time to the Bank to evidence or secure all or any part of the Loan or any indebtedness arising at any time under this Agreement, are referred to collectively herein as the "Loan Papers"), all to be in form and assignment of beneficial interest under land trust; (d) a guaranty; (e) Environmental Indemnity Agreement and (f) such other or additional documents or instruments, including but not limited to an accountant's reliance letter, financing statements and Guarantor's certificates, as the Bank may reasonable require.

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Section 4. COVENANTS OF BORROWER.

(ii) Covenants of Borrower Which Are Conditions Precedent to the First Advance. Borrower covenants and agrees that, prior to and as a condition precedent to the First Advance by the Bank of any monies pursuant to this Agreement (in addition to those requirements set forth in Section 2) and at all times until all indebtedness of any kind under this Agreement or the Note has been repaid in full:

- (i) Check List Items. Borrower will deliver to the Bank all items on the documentation Checklist delivered to Borrower by Bank concurrently herewith.
- (ii) Licenses. Borrower will furnish to the Bank (A) to the fullest extent available under applicable law, and in all events before such times as such licenses are required by law to be obtained, all licenses required by law for use, occupancy, construction and operation of the Project, (B) evidence satisfactory to the Bank establishing that any and all required licenses, permits and approvals of the Project have been issued by all environmental protection agencies (federal, state and local) having jurisdiction, which approvals shall be satisfactory in form and substance to the Bank, (C) evidence satisfactory to the Bank of the availability and adequacy of all utilities and municipal services required for the Project and of the authority to tie into such utilities and municipal services, and (D) evidence satisfactory to the Bank that the Project is and will be in compliance with all applicable FAA regulations, all applicable OSHA regulations, all applicable building, fire, safety and zoning laws, rules and regulations, and all other applicable laws of any kind whatsoever, that no covenants or restrictions affecting the Premises are presently or will be violated by the Project, and (E) evidence that there are no petitions, proceedings or actions pending or threatened to alter or declare invalid any laws, ordinances, rules, regulations, permits, certificates, restrictions, leases or agreements authorizing or relating to the Project which could have an adverse effect on the Project or the value of or security for the Loan.
- (iii) Certificates of Architect. The Borrower shall have furnished Certificates from the Architect containing such agreements as the Bank shall request in form and substance reasonably satisfactory to the Bank.
- (iv) Construction Documents and Collateral Assignments: Completion Date. The Borrower will deliver or cause to be delivered to the Bank a detailed list of all construction contracts and subcontracts which have been signed at any time through the date of the First Advance, which list will set out, inter alia, the name and address of each contractor or subcontractor and a detailed description of the work he will perform and the materials he will supply, and will also describe the total contracted-for cost of each trade and significant category of work or materials to be furnished for the Project. The Construction Contract shall include

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all the work necessary to the completion of the Project in accordance with approved Plans and Specifications, shall obligate the Contractor to complete the construction of the Project not later than the Completion Date, shall provide for a price not to exceed that amount previously approved by the Bank on the Project Budget, and shall be in all respects satisfactory to the Bank. For purposes of this Agreement, the "Completion Date" means June 1, 1995 subject to extension by the number of days lost due to strike, labor trouble or Acts of God. If the Bank should so request at any time, there shall also be furnished to the Bank a subordination agreement, satisfactory in form and substance to the Bank, pursuant to which the Contractor expressly subordinates any lien it may now or hereafter have against the Promises or any part thereof to any liens or claims now or hereafter existing in favor of any or all of the Bank and any lender purchasing any loan from the Bank or making any new loan which will be used in whole or in part to retire or refinance any loan from the Bank.

(v) Initial Report of Inspector. The Bank shall have received the favorable report of King Cooper and Associates (the "Inspector"), satisfactory in all respects to the Bank, concerning the Plans and Specifications, the Construction Contract; if applicable, the Architect's Agreement; the Project Budget, all costs, the status of any work done on the Project, and such other matters as the Bank may request.

(vi) Site Plan and Working Drawings. The Borrower shall have delivered to the Bank (i) a site plan for the Project approved in writing by the Architect (which approval will expressly state that such plan complies with all applicable laws, ordinances, set-back and other requirements of law and any applicable covenants, conditions and restrictions), and (ii) final working drawings and Plans and Specifications for the Project certified by the Architect as being complete, sufficient and appropriate and complying with all applicable laws and ordinances, and approved in writing by the Contractor and the Bank.

(vii) Additional Matters. Borrower shall have delivered to the Bank such other or additional documents, instruments, information or items of any kind or nature (all in form and substance satisfactory to the Bank) as the Bank may reasonably request.

(b) Further Covenants of Borrower. Borrower covenants and agrees that, at all times from the date of this Agreement and until all indebtedness of any kind to the Bank under this Agreement and the Note has been repaid in full, and also as a condition to each Subsequent Advance and as of the time of each such Subsequent Advance:

(i) Continued Compliance with Section 4(A). There shall be and continue to have been full compliance with, performance of and satisfaction of all covenants, agreements and conditions set out in subsection 4(a).

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(ii)

Construction of the Project 0 7 7 6 5

(A) The Borrower shall cause the construction of the Project to be prosecuted with diligence, in good faith and without delay, so that the same will be fully completed no later than June 1, 1995.

(B) Borrower will cause the Project to be constructed in a good and workmanlike manner, in accordance with the Plans and Specifications, pursuant to the Construction Contract and in all respects in compliance with all applicable laws, regulations, permits, and requirements of public authorities having jurisdiction over the Premises and will not cause, permit or allow any deviations from the approved Plans and Specifications without the prior written consent of the Bank.

(C) All materials contracted or purchased for delivery to the Premises or for use in construction, and all labor contracted or hired for or in connection with the construction of the Project, shall be used and employed solely on the Premises and in the construction of the Project and for no other purpose.

(D) No extra work or materials or change in the approved Plans and Specifications shall be ordered or authorized by Borrower without the prior written consent of the Bank, provided, however, that the Borrower may, without the prior written consent of the Bank, order or authorize change orders to the Plans and Specifications which in their aggregate do not exceed \$10,000 during the term of the Loan.

(E) If the Bank shall consent to any such extra work or materials or change in the approved Plans and Specifications and if the undisbursed balance of the Loan provided for in this Agreement is insufficient to complete the Project incorporating such extra work or materials or changes, the amount of such insufficiency shall be deemed a deficiency, and the Borrower shall immediately deposit with the Bank either funds or other security satisfactory in all respects to the Bank, in an amount equal to the cost of such extra work or materials or changes, and such additional deposit shall be released upon the completion of such extras or changes in payment therefor.

(iii) Compliance with Agreements. Borrower shall comply with all terms and conditions of the Construction Contract, the Architect's Agreement and all other agreements with third parties relating to the acquisition, development and construction of the Project, including but not limited to all obligations of Borrower under the terms of the Post-Closing Agreement. Borrower shall not change or replace the general contractor without the prior written consent of the Bank.

(iv) No Default. There shall have been full compliance, performance of and satisfaction of all covenants, agreements and conditions set forth herein and all other Loan Documents. No Event of Default or Unmatured Event of Default

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(Both terms of this Contract have been used and remain unchanged under the terms hereof or any other Contract Document.)

- (v) Financial Statements of Borrower. Within ninety (90) days after the end of the most recent fiscal year and each succeeding fiscal year, Borrower shall furnish to Bank financial statements pertaining to the Premises and, if there are guarantors, shall cause Guarantor to furnish its financial statements to Bank. Statements pertaining to Borrower shall be certified by an officer as being true, correct and complete. Statements pertaining to a Guarantor shall be certified by such Guarantor as being true, correct and complete. Borrower shall also furnish to Bank such rent rolls and interim unaudited financial statements and other information pertaining to the Premises and the operation thereof as Bank, from time to time, may require. In addition, Borrower shall cause Guarantor to deliver updates of the information required to be delivered by Guarantor in accordance with the provisions of the Guaranty.
- (vi) Financial Statements of Guarantors. Within ninety (90) days after the end of the most recent calendar year and each succeeding calendar year, Borrower shall cause each Guarantor of Borrower to furnish to Bank the financial statement of each Guarantor, certified by such Guarantor, showing the cash flow and all contingent obligations of such Guarantor. In addition, Borrower shall cause and each Guarantor to deliver update of the information required to be delivered by Guarantor in accordance with the provisions of the Guaranty and upon request Borrower shall deliver or cause to be delivered to bank the federal income tax returns of borrower, and each Guarantor.
- (vii) Operating Income. All income received by Borrower during the term hereof from any source whatsoever shall be used first to pay operating costs and expenses of the Project, including, without limitation maintenance costs, insurance, general real estate taxes and management fees, and thereafter to the payment of other obligations, including but not limited to interest payable under the Note.
- (viii) Books and Records. Borrower will allow the Bank and its representatives or agents, access at any time during normal business hours to the records and books of account (including all supporting or related vouchers or papers), kept by or on behalf of Borrower, its representatives or agents in connection with the Project and the Premises, such access to include the right to make extracts or copies thereof.
- (ix) Remedying Construction Defects. Borrower will remedy, in a manner reasonably satisfactory to the City of Chicago and the Bank, such portions or aspects of the construction contemplated herein as may be determined to be not substantially in compliance with the approved Plans and Specifications, or any governmental laws, ordinances, rules and regulations affecting the Premises.

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(x) Requests for Advances. Concurrently with the notice of Intention to effect any Subsequent Advance, the Borrower shall furnish the Bank with the following, all in form and substance satisfactory to the Bank:

(A) A detailed Application for Payment and Contractor's Sworn Statement, sworn to by each Contractor seeking payment;

(B) Supporting Lien waiver from each Contractor and each subcontractor seeking payment shown in each such Sworn Statement (provided, however, that if the Title Company will insure over the same as required herein, after the first two Advances have been made said Lien waivers may be provided within 30 days of said notice but prior to the next Advance);

(C) An Application for Advance;

(D) A Certificate of the Architect; and

(E) Such other or additional forms and supporting documentation as the Bank may reasonably require from time to time. The documentation set forth above is sometimes herein collectively referred to as the "Request for Advance". Prior to each Subsequent Advance, the Borrower will furnish the Bank with a revised and current Request for Advance satisfactory in form and substance to the Bank, showing changes in, variations from, and all additions to the last preceding Request for Advance, with each component part of the Request for Advance being signed or sworn to, as the case may be, by the same person or entities which were required to do so in the last preceding Request for Advance and by such additional entities as the Bank may request.

(xi) Later Date Title Endorsements. The Borrower will furnish to the Bank later date pending disbursement endorsements to the title policy (issued by the Title Company) stating, in form and substance satisfactory to the Bank, that title to the Premises has been re-examined and that there has been no adverse change in the condition of title since the last such examination, and each of which later date endorsements shall also (A) contain the Title Company's interim insurance covering all Advances theretofore and then being made pursuant to the Agreement, (B) cover the date of the making of the applicable Subsequent Advance, (C) contain the endorsements set forth in or otherwise required hereunder, and (D) be subject to no exceptions other than the Permitted Exceptions.

(xii) No Damage. There shall be no substantial unrepaired damage to the Project by fire or other casualty which is not covered by insurance collected or in the process of collection and provided such damage will not delay the completion of construction past June 1, 1995.

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(xiii)

Inspection by Borrower. The Borrower shall cause to be made such inspections of the Premises as are necessary to determine that (i) the quality, design and construction of the Project and pursuant to and consistent with all applicable laws, ordinances, rules and regulations and the approved Plans and Specifications, and (ii) the construction of the Project will be completed on or before the Completion Date; and Borrower will immediately notify the Bank, in writing, should Borrower ascertain any deficiency or variance with respect to any of the foregoing.

(xiv)

Access For Inspector. The Bank and its agents, representatives, contractors and participants (if any) including the Inspector, shall have access to the Premises and all parts thereof at all times for inspection thereof or for any other purpose. Borrower will permit, and will cooperate with Bank in arranging for, inspections from time to time of the Premises by the Inspector, if requested by Bank, and any other representatives of Bank. In the event that the Inspector or other representative furnish Bank with reports covering such inspections, Bank may, but is not under any obligation whatsoever, to furnish Borrower with copies of any of said reports. Borrower acknowledges and agrees that (A) all of such inspections and reports shall be made for the sole benefit of Bank and not for the benefit of Borrower or any third party, and neither Bank nor the Inspector or any other of its representatives, agents or contractors assume any responsibility or liability (except to Bank) by reason of such inspections, reports or the furnishing of any of such reports to Borrower, (B) Borrower will not constitute a waiver of any of the provisions of this Agreement or any of the obligations of Borrower hereunder. Borrower further acknowledges and agrees that neither Bank nor the Inspector or any other Bank's representatives, agents or contractors shall be deemed in any way responsible for any matters relating to design or construction of the project.

(xv)

Report of Inspector. Prior to each Subsequent Advance, the Bank shall have received the favorable report of the Inspector, satisfactory in all respects to the Bank, to the date of such report is in compliance with the approved Plan and Specifications and all applicable laws and regulations, to the effect that the construction of the Project, that the work for which such Advance is being requested has been completed, that the Project can reasonably be expected to be completed by the Completion Date or such later date as the Completion Date may be extended pursuant to the terms hereof, and that the portion of the Loan remaining undischarged, if any, is sufficient to pay in full all amounts required to be reserved hereunder, and for the completion of the Project by such date, and covering such other matters as the Bank may request.

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- (xvi) Other Documentation. The Borrower will furnish to the Bank, promptly and from time to time, all such other documentation, instruments and information as the Bank may reasonably request.
- (xvii) Payment of Expenses and Costs. The Borrower shall pay promptly to the Bank without demand, with interest thereon from date of expenditure at the Default Rate specified in the Note, reasonable attorneys' fees and all costs and other expenses of any kind whatsoever paid or incurred by the Bank in enforcing or exercising its rights or remedies created by, connected with or provided in this Agreement or in any of the other Loan Documents including, but not limited to all court costs, recording costs, expenses of foreclosure, title insurance premiums, minutes of foreclosure, reasonable attorney's fees and all other costs and expenses associated therewith, and payment thereof shall be secured by the Mortgage and the other Loan Papers.
- (xviii) Payments in Trust. Borrower will receive and hold in trust, for the purpose of paying Project costs and the indebtedness evidenced by the Note, all Advances made hereunder directly to Borrower, all rents, income and profit from the Premises and Borrower will not apply the same for any other purposes.
- (xix) Reports. The Borrower agrees that, promptly upon receipt of any audit, construction, marketing or other report relating in any way to the Project from its auditor or any other person or entity, the Borrower will furnish copies of each such to the Bank.
- (xx) Notice of Default. The Borrower will promptly notify the Bank if the Borrower learns of the existence of a state of facts which constitute an Event of Default hereunder or under any other Loan Document.

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Section 5. DEFAULT.

(a) Events of Default. Each of the following shall constitute an "Event of Default" under this Agreement:

- (i) The failure of Borrower to pay any payment of principal or interest due under the Note or herein within ten (10) after the due date thereof; or
- (ii) The failure by the Borrower to perform any obligation under, or the occurrence of any other default with respect to any provision of this Agreement other than as specifically described in any other clause of this subsection 5(a), and the continuation of such default for a period of thirty (30) days after written notice thereof; or
- (iii) The failure by Borrower to perform any obligation under, or the occurrence of any other default with respect to any provision of the other Loan Documents (other than as specifically described in any other clause of this subsection 5(a)), which is not cured within the time period provided therefor, if any; provided that Bank shall not make any additional Advances under this Agreement during such cure period until such Unmatured Event of Default is completely cured. With respect to any event or occurrence which constitutes an Event of Default hereunder solely by reason of its constituting a default or Event of Default under another document or instrument, to the extent (if any) that such other document or instrument provides a grace or cure period with respect to such default, the same grace or cure period, and only such period, shall apply with respect thereto under this Agreement; or
- (iv) Any representation, warranty or certification made in this Agreement by Borrower or otherwise made in writing in connection with or as contemplated by this Agreement, proves to have been false in any respect at any time; or
- (v) There is any material adverse change at any time in the financial condition of Borrower or any Guarantor from such entities' financial condition as of the date hereof; or
- (vi) The Premises or any material part thereof is damaged or destroyed by fire or other casualty and the loss is not adequately covered by insurance actually collected or in the process of collection, and Borrower fails to deposit or to cause to be deposited with the Bank the full amount of the deficiency in cash within ten (10) days of the Bank's written request therefor; or
- (vii) Borrower fails to comply with any requirement (including, without limitation, compliance with all applicable zoning, building, health, fire and environmental laws, rules, regulations and ordinances) of any governmental authority having jurisdiction within thirty (30) days (or such lesser time, if any, as may be required by law or by such governmental authority) after Borrower has notice of such requirement, provided,

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however, that Borrower may, in good faith contest such requirement in accordance with the terms of the Mortgage; or

- (viii) Proceedings are formally commenced by any public or quasi-public body to acquire the land, the Premises or any interest in or any part of any of them by condemnation, eminent domain or any similar power or authority, and such proceedings are not dismissed within sixty (60) days of their being instituted, unless in the Bank's opinion such acquisition would not materially interfere with the construction of the Project or the intended uses of the Premises; or
- (ix) Any lien or notice of lien of any kind whatsoever (whether for the performance of work or services or the supplying of materials or other things, or in the nature of a judgment lien or lien for taxes, or otherwise) is filed or served against the Premises or any part thereof or is received by the Bank, and remains unsatisfied or unbonded to the Bank's satisfaction for a period of thirty (30) days after the Borrower receives notice thereof, provided that Borrower shall have the right to contest such lien in accordance with the terms of the Mortgage; or
- (x) Any sale, assignment or transfer in violation of Section 4(d) hereof; or
- (xi) The land or the Premises, or any part thereof or interest (whether legal, beneficial or otherwise) therein, becomes subject to the jurisdiction of any court in any bankruptcy, insolvency, reorganization or similar case or proceeding under the laws of the United States of America, any state, or any other jurisdiction; or
- (xii) Borrower fails to keep in full force and effect during the term hereof the policy or policies of insurance required pursuant to the terms hereof; or
- (xiii) the Borrower or any guarantor of the indebtedness shall fail to pay its debts, make an assignment for the benefit of its creditors, or shall commit an act of bankruptcy, or shall admit in writing its inability to pay its debts as they become due, or shall seek a composition, readjustment, arrangement, liquidation, dissolution or insolvency proceeding under any present or future statute or law, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or Federal, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of its property, or any part hereof, in any proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee, liquidator or receiver shall not

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be discharged, or such jurisdiction shall not be relinquished, vacated or stayed within sixty (60) days of the appointment; or

- (xiv) The Borrower fails to maintain its corporate existence or any Guarantor shall die or become incompetent.
- (xv) An event of default as defined in any other Section of this Agreement shall have occurred.

(b) Remedies. Upon the occurrence of any Event of Default, the Bank shall have the right, in addition to all the remedies conferred upon the Bank by law or equity or the terms of any of the Loan Documents, to do any or all of the following, concurrently or successively, without notice to Borrower:

- (i) Declare the Note to be, and the Note shall thereupon become, immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived, anything contained herein or in the Note to the contrary notwithstanding;
- (ii) Terminate the Bank's obligations under this Agreement to extend credit of any kind or to make any Advance, whereupon the commitment and obligations of the Bank to extend credit or to make Advances hereunder shall terminate;
- (iii) Enter upon, take possession of, and use the Premises and all parts thereof and all material, equipment and supplies thereon and elsewhere which were ordered for or appropriated to the construction or operation of the Project for the purpose of continuing the construction or operations of the Project, and do anything which in its sole judgment is necessary or desirable to fulfill, pay, settle or compromise any obligation to Borrower hereunder or to complete the Project, including availing itself, or through others, of, and procuring performance of, the Architect's Agreement, the Construction Contract and each subcontract or letting new contracts with the Contractor or the Architect or others. All sums paid or incurred for the construction, completion and equipping of the Project, pursuant to the provisions of this paragraph or otherwise, and all other payments made or liabilities incurred in good faith by the Bank under this Agreement of any kind whatsoever, shall bear interest from the date of payment or incurrence at the Default Rate of Interest provided for in the Note, and such amounts, including interest, shall be deemed and shall constitute Advances under this Agreement. The Bank and its designees, representatives, agents, licensees, contractors and Inspector shall be entitled to such entry, possession and use without the consent of any party and without any legal process or other condition precedent whatsoever. Borrower acknowledges that any denial of such entry, possession and use by the Bank will cause irreparable injury and damage to the Bank; and

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(iv) To the fullest extent permitted by law, appropriate and apply on the payment of all indebtedness of any kind under this Agreement, the Note or the other Loan Documents (whether or not due and in any order of priority as may be selected by the Bank in its sole and absolute discretion), any and all accounts and monies held in possession of Bank for the benefit of Borrower.

(c) Completion of the Project by the Bank. To implement the rights of the Bank under Section 5(b) upon the occurrence of an Event of Default, Borrower hereby constitutes and appoints the Bank its true and lawful attorney-in-fact with full power of substitution in the Premises to take possession of the Premises after notice to the Borrower and to complete, furnish, fixture and equip the Project in the name of Borrower in good faith and to pay all bills and expenses incurred thereby, and hereby further empowers the Bank as its attorney-in-fact to do any or all of the following after the occurrence of any Event of Default:

- (i) to use any funds of the Borrower, including any Loan balance which might not have been disbursed, for the purposes of completing the Project;
- (ii) to make such corrections, additions, changes and modifications in the Plans and Specifications as may be necessary or desirable in the sole determination of the Bank to complete the Project in substantially the manner contemplated in the approved Plans and Specifications;
- (iii) to employ such contractors, subcontractors, employees, agents, architects, engineers, watchmen, managers, consultants and inspectors as the Bank may deem appropriate;
- (iv) to pay, settle or compromise all existing bills and claims which may be or become liens against the Premises (or any part thereof) or as may be necessary or desirable in the opinion of the Bank for completion of the Project or for the clearance of title;
- (v) to prosecute and defend all actions and proceedings in connection with the construction of the Project or title to the Premises;
- (vi) to execute all applications, certificates, or instruments in the name of Borrower which in the opinion of the Bank may be or are required by any governmental authority or contract; to enter into leases relating to the Premises;
- (vii) to do all acts and things of any kind whatsoever that may, in the Bank's judgment, be necessary or appropriate;
- (viii) to do any and every act which Borrower might do in its own behalf;
- (ix) to prosecute and defend all actions and proceedings in connection with the construction, equipping, furnishing and fixturing of the Project; and

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(x) It is further understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest and irrevocable to take such action and require such performance under any surety bond or other obligation, and to execute in the name of Borrower such further bonds or obligations, as may be reasonably required in connection with the work. It is further understood and agreed that this power of attorney shall be deemed to be a power coupled with an interest and irrevocable. Anything in this Agreement to the contrary notwithstanding, it is specifically understood and agreed that all funds furnished by the Bank and employed in performance of the obligations of Borrower under this Agreement shall be deemed advanced by the Bank under an obligation to do so regardless of the identity of the person or persons to whom such funds are furnished. Funds advanced by the Bank in the exercise of its judgment that the same are needed to complete the Project or to protect its security are to be deemed obligatory advances hereunder and are to be added to the total indebtedness evidenced by the Note and secured by the Mortgage and the other Loan Papers, and said indebtedness shall be increased accordingly. The provisions of this Section 5(c) shall prevail over any inconsistent provisions of this Agreement.

(d) Unmatured Event of Default. For purposes of this Agreement, the term "Unmatured Event of Default" means any event or circumstance which would, with the giving of notice or the passage of time or both, if not cured, constitute an Event of Default.

(e) Budget Line Items and Reserves. Whenever there has occurred and is continuing any Event of Default hereunder or any deficiency, the Bank may, without the request or consent of the Borrower, apply any and all funds or amounts from any category set out in the Project Budget for any purpose whatsoever as long as it is related to completion of the Project.

(f) Advances by the Bank. The Bank shall have the right (but not the obligation), at any time after the occurrence of an Event of Default or an Unmatured Event of Default, to do any and all acts which the Bank may deem necessary or appropriate to assure the prompt and proper operation of the Premises, completion of the Project and the protection of the Loan and the lien or charge thereof, including but not limited to the settlement, compromise or contest of any lien or claim of lien, the taking of possession of the Premises and completion of all the work contemplated hereby, and the commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights, obligations or duties of the parties hereto. Any expense paid or incurred, or any advance made by the Bank in such connection, shall be paid by the Borrower to the Bank upon demand. Such amounts as are advanced or expended by the Bank hereunder shall be secured by the Mortgage and the other Loan Papers and shall bear interest from the date of advance or expenditure at the applicable interest rate provided in the Note unless an Event of Default shall have occurred and be continuing, in which event interest shall be at the Default Rate provided in the Note.

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(9) Loan Default. If such Bank, in its exclusive discretion, determines at any time or from time to time that the undischarged balance of the Loan is or shall be or become insufficient to pay all Project costs and pay for the completion of the Project in accordance with the approved Plans and Specifications and all expenses and charges of every kind and nature in connection therewith (including, but not limited to, all items which are described in the Budget) or any other obligations of the Borrower contained herein or contained in any of the Loan Documents, the Borrower shall within five (5) days after demand by the Bank, and such deposit shall first be exhausted in payment of Project costs and other items described in the preceding portion of this sentence before any further Advances of any proceeds of the Loan shall be made.

Section (6) MISCELLANEOUS.

(a) Notices. Any and all notices given in connection with this Agreement shall be deemed adequately given only if in writing and addressed to the party for whom such delivery, Federal Express or other over-night messenger service, first class registered or certified mail, postage prepaid, return receipt requested or by other means at least as fast and reliable as first class mail. A written notice shall be deemed to have been given to the recipient party on the earlier of (a) the date it shall be delivered to the address required by this Agreement; (b) the date delivery shall have been refused at the address required by this Agreement; or (c) with respect to notices sent by mail, the date as of which the postal service shall have indicated such notice to be undeliverable at the address required by this Agreement. Any and all notices referred to in this Agreement, or which either party desires to give to the other, shall be addressed as follows:

If to Borrower: Daniele Development Company
300 S. Wacker Drive
Suite 1720
Chicago, IL 60606
Attn: Gloria Carney Shealey, president

If to the Bank: George R. Brokemond, President
Highland Community Bank
1701 W. 87th Street
Chicago, Illinois 60620

The above address may be changed by notice of such change, mailed as provided herein, to the last address designated.

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(b) No Waiver. No failure by the Bank to exercise, or delay by the Bank in exercising, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof, or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any right or remedy provided by law. No notice to or demand on Borrower in any case shall, in itself, entitle Borrower to any other or further notice or demand in similar or other circumstances or constitute a waiver of the rights of the Bank to any other or further action in any circumstances without notice or demand.

(c) Binding Effect. This Agreement and the Loan Documents shall be binding upon the respective parties hereto and their respective successors and assigns, provided that no assignment by Borrower shall be effective except as provided in Section 4(d) hereof. This Agreement is made for the sole benefit of Borrower, and the Bank (and inures to the benefit of the Bank and Bank's participants, successors and assigns), and no other person or persons shall have any duty whatsoever to any claimant for labor performed or material furnished in connection with the construction of the Project to apply any undisbursed portion of the Loan to the payment of any such claim or to exercise any right or power of the Bank hereunder or arising from any default by Borrower hereunder.

(d) Form of Documents; Expenses. All documents and other matters required by any of the provisions of this Agreement to be submitted, delivered or furnished to the Bank shall be in form and substance satisfactory to the Bank, and shall be provided at the Borrower's expense and at no expense to the Bank.

(e) Further Assurances. Borrower agrees that, at any time or from time to time, upon the written request of the Bank, it will execute and deliver all such further documents and do all such other acts and things as the Bank may reasonably request in connection with the Loan or this Agreement.

(f) Time of the Essence. Time is hereby declared to be of the essence of this Agreement and of every part hereof.

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(g) Security for Advances and Payments. Any and all disbursements, payments and amounts expended by the Bank pursuant to this Agreement, and all other loan expenses, shall, as and when advanced or incurred, be and become secured by the Mortgage and the other Loan Papers to the same extent and effect as if the terms and provisions of this Agreement were set forth therein, whether or not the aggregate of such indebtedness shall exceed the face amount of the Note, or the principal amount of indebtedness set out in the Mortgage, and any Event of Default which may occur under this Agreement shall constitute a default under the Note, under the Mortgage and under each of the other Loan Papers.

(h) Entire Agreement; Amendments. This Agreement constitutes the entire agreement between the parties hereto and it supersedes and replaces completely any prior agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended in any manner other than by supplemental written agreement executed by the Borrower and the Bank.

(i) Agreement Binding Only Upon Execution by Bank. The submission of this Agreement to Borrower for examination does not constitute a commitment or an offer to make a commitment by the Bank for a loan to Borrower or otherwise, and this Agreement shall become effective as a commitment only upon execution and delivery hereof by the Bank to Borrower.

(j) Governing Law. This Agreement has been executed, delivered and accepted at Chicago, Illinois and the parties agree that the Federal or state courts in Illinois are a proper forum and shall be the only forum for the resolution of any and all disputes of any nature which may arise between the parties to this Agreement. All of the Loan Documents shall also be governed by, and construed in accordance with, the substantive laws of the State of Illinois (including, without limitation, the substantive laws of the State of Illinois concerning interest and usury). No party to this agreement shall attempt to change venue from a court in Illinois to a court in any other jurisdiction.

(k) Waiver of Trial by Jury. BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES THE RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR ACTIONS OF EITHER PARTY. BORROWER HEREBY EXPRESSLY ACKNOWLEDGES THIS WAIVER IS A MATERIAL INDUCEMENT FOR LENDER TO ENTER INTO THIS AGREEMENT AND TO MAKE THE LOAN EVIDENCED HEREBY AND BY THE OTHER LOAN DOCUMENTS.

(l) Representation by Counsel. Borrower hereby represents and warrants that it has consulted and conferred with competent legal counsel of its choice before executing this

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Agreement and all other Loan Documents. Borrower further represents and warrants that it has read and understood the terms of this Agreement and intends to be bound hereby.

(m) Participants. Borrower acknowledges that the Bank may have one or more participants in the Loan to be disbursed under this Agreement and agrees that, if so requested by the Bank, Borrower will sign the participation agreement between the Bank and such participants and will cause all insurance policies, binders and commitments (including, without limitation, casualty insurance and title insurance) required by this Agreement to be delivered to the Bank to name as additional insureds or obligees such participants as the Bank may request; provided, however, that Borrower shall be entitled to deal directly with the Bank, and need not deal directly with any participant of the Bank, in all matters relating to the Loan.

(n) Payment of Expenses. Whether or not the Loan or any Advance is made, Borrower shall pay all fees, costs and expenses incurred by it or by the Bank in connection with the Loan, this Agreement and the Loan Documents, including (but not limited to): all fees and expenses of Borrower's and the Bank's respective attorneys; all costs of preparation, negotiation, execution and (where appropriate) recording or filing this Agreement, the Loan Papers and all closing documents; all costs of title reports, title insurance and surveys; and all cost-estimator fees, construction inspection fees, appraisal fees, engineering fees and expenses (if any), brokerage commissions (if any), recording and filing fees, and taxes or fees required to be paid at the time or times of recording or filing the Mortgage or any other of the Loan Documents. All amounts payable by Borrower hereunder shall be paid on demand, and shall bear interest as provided for sums advanced under the Loan hereunder from the date of demand until paid in full.

(o) Captions. Captions and headings used in this Agreement are for convenience of reference only, and shall not affect the construction or interpretation of this Agreement.

(p) Gender, Number and Joint and Several Liability. Any word herein which is expressed in the masculine or neuter gender shall be deemed to include the masculine, feminine and neuter genders. Any word herein which is expressed in the singular or plural number shall be deemed, whenever appropriate in the context, to include the singular and the plural.

(q) Counterparts. This Agreement will be signed in two or more counterparts, and each of such fully executed counterparts shall be deemed an original of this Agreement.

(r) Maximum Interest Rate. Regardless of any provision contained in this Agreement or in any of the other Loan Documents, the Bank shall never be entitled to receive, collect, or apply, as interest on the Loan, any amount in excess of the Highest Lawful Rate (defined hereinafter) and, in the event the Bank ever receives, collects, or applies as interest any such excess, such amount which would be excessive interest shall be deemed a partial prepayment of principal and treated hereunder as such; and, if the principal of the

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Note is paid in full, any remaining excess shall forthwith be paid to Borrower. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the Highest Lawful Rate, Borrower and the Bank shall, to the maximum extent permitted under applicable law, (a) characterize any nonprincipal payment as an expense, fee, or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread, in equal parts, the total amount of interest throughout the entire contemplated term of the Loan so that the interest rate is uniform throughout the entire term of the Loan; provided that if the Loan is paid and performed in full prior to the end of the full contemplated term thereof, and if the interest received for the actual period of existence thereof exceeds the Highest Lawful Rate, the Bank shall refund to Borrower the amount of such excess or credit the amount of such excess against the principal of the Note, and in such event, the Bank shall not be subject to any penalties provided by any laws for contracting for, charging, or receiving interest in excess of the Highest Lawful Rate. For purposes hereof "Highest Lawful Rate" means the maximum rate of interest which the Bank is allowed to contract for, charge, take, reserve, or receive under applicable law after taking into account, to the extent required by applicable law, any and all relevant payments or charges hereunder.

(s) Commitment Fee. A loan commitment fee is an amount equal to two percent (2%) of the Loan amount shall be payable concurrently with the first disbursement of the Loan.

(t) Representation by Counsel. Mortgagor hereby represents and warrants that Mortgagor has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage, the Note and the other Loan Documents, and that Mortgagor has read and understood this Mortgage, the Note and the other Loan Documents and intends to be bound hereby.

(u) Waiver by Borrower. EXCEPT AS OTHERWISE PROVIDED FOR IN THIS AGREEMENT OR REQUIRED BY LAW, BORROWER WAIVES (I) PRESENTMENT, DEMAND AND PROTEST, NOTICE OF PROTEST, NOTICE OF PRESENTMENT, DEFAULT, NON-PAYMENT, MATURITY, RELEASE, COMPROMISE, SETTLEMENT, EXTENSION OR RENEWAL OF ANY OR ALL COMMERCIAL PAPER, ACCOUNTS, CONTRACT RIGHTS, DOCUMENTS, INSTRUMENTS, CHATTEL PAPER AND GUARANTIES AT ANY TIME HELD BY BANK ON WHICH BORROWER MAY IN ANY WAY BE LIABLE AND HEREBY RATIFIES AND CONFIRMS WHATEVER BANK MAY DO IN THIS REGARD; (II) ALL RIGHTS TO NOTICE AND A HEARING PRIOR TO BANK'S TAKING POSSESSION OR CONTROL OF, OR TO BANK'S REPLEVY, ATTACHMENT OR LEVY UPON THE COLLATERAL OR ANY BOND OR SECURITY WHICH MIGHT BE REQUIRED BY ANY COURT PRIOR TO ALLOWING BANK TO EXERCISE ANY OF BANK'S REMEDIES; AND (III) THE BENEFIT OF ALL VALUATION, APPRAISEMENT, EXTENSION AND EXEMPTION LAWS.

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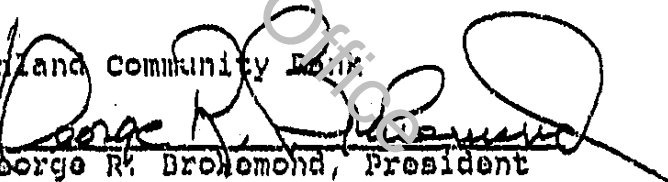
(v) ~~Governing Law Jurisdiction~~ THIS AGREEMENT HAS BEEN DELIVERED FOR ACCEPTANCE BY BANK IN CHICAGO, ILLINOIS AND SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (AS OPPOSED TO THE CONFLICTS OF LAW PROVISIONS) OF THE STATE OF ILLINOIS. BORROWER HEREBY (i) IRREVOCABLY SUBMITS, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO THE JURISDICTION OF ANY STATE OR FEDERAL COURT LOCATED IN CHICAGO, ILLINOIS, OVER ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY MATTER ARISING FROM OR RELATED TO THIS AGREEMENT; (ii) IRREVOCABLY WAIVES, TO THE FULLEST EXTENT BORROWER MAY EFFECTIVELY DO SO, THE DEFENSE OF AN INCONVENIENT FORUM TO THE MAINTENANCE OF ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT; (iii) AGREES THAT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, A FINAL JUDGMENT IN ANY SUCH ACTION OR PROCEEDING IN ANY SUCH COURT SHALL BE CONCLUSIVE AND MAY BE ENFORCED IN ANY OTHER JURISDICTIONS BY SUIT ON THE JUDGMENT OR IN ANY OTHER MANNER PROVIDED BY LAW; AND (iv) TO THE EXTENT PERMITTED BY APPLICABLE LAW, AGREES NOT TO INSTITUTE ANY LEGAL ACTIONS OR PROCEEDING AGAINST BANK OR ANY OF BANK'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR PROPERTY, CONCERNING ANY MATTER ARISING OUT OF OR RELATING TO THIS AGREEMENT IN ANY COURT OTHER THAN ONE LOCATED IN COOK COUNTY, ILLINOIS. NOTHING IN THIS SECTION SHALL AFFECT OR IMPAIR BANK'S RIGHT TO SERVE LEGAL PROCESS IN ANY MANNER PERMITTED BY LAW OR BANK'S RIGHT TO BRING ANY ACTION OR PROCEEDING AGAINST BORROWER OR BORROWER'S PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION.

IN WITNESS WHEREOF, the parties have hereto set their respective hands and seals to this Agreement at Chicago, Illinois as of date first above written, pursuant to proper authority duly granted.

Danielle Development Company

By: 
Gloria Carney Shealey, President

Highland Community Bank

By: 
George R. Brodeur, President

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SCHEDULE OF EXHIBITS

- A. Legal Description of Land
- B. Project Budget

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Property of Cook County Clerk's Office

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EXHIBIT A 04073054

LEGAL DESCRIPTION

Common Address:

628 4475
4501 S. Oakenwald Avenue, Chicago, Illinois

P.I.N.:

LEGAL DESCRIPTION ATTACHED

Property of Cook County Clerk's Office

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EXHIBIT A 04073054

LEGAL DESCRIPTION

Common Address:

608 4475
4601 S. Oakenwald Avenue, Chicago, Illinois

P.I.N.:

LOT 35 (EXCEPT THE SOUTH 19.98 FEET THEREOF) AND THE SOUTH 9.99 FEET OF LOT 36 IN KENWOOD SUBDIVISION IN THE SOUTHEAST FRACTIONAL 1/4 OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

CONTAINING 5,169.4 SQ. FT.

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Property of Cook County Clerk's Office

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EXHIBIT 0 7 3 0 1

CONSTRUCTION BUDGET

CONSTRUCTION BUDGET ATTACHED

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**NORTH KENWOOD-OAKLAND DEVELOPMENT BUDGET
 DANIELE DEVELOPMENT COMPANY
 4475, ~~4525~~, ~~4550~~ & ~~4576~~ SOUTH OAKENWALD AVENUE**

ADDRESS	4475 OAKENWALD	4525 OAKENWALD	4550 OAKENWALD	4576 OAKENWALD	TOTAL
SALES PRICE	\$ 258,100	\$ 197,600	\$ 192,525	\$ 197,000	\$ 845,310
Land	16,200	17,000	14,700	9,600	57,900
Construction	167,000	139,000	135,500	135,500	577,000
General Req.	20,000	7,000	7,000	7,000	31,000
Architect	1,500	1,500	1,500	1,000	5,500
Survey/Tests	500	500	500	500	2,000
Legal/Closing	3,000	2,000	2,000	2,000	9,000
Insurance	200	200	200	200	800
Sales Expense	5,125 ✓	0	0	0	5,125
Finance Exp.	4,500	3,500	3,400	3,400	14,800
Interest Exp.	4,000	2,500	3,000	3,000	12,500
Contingency	5,000	4,000	4,000	4,000	17,000
Profit	41,075	20,085 ✓	20,725 ✓	30,800	112,685
TOTAL	\$ 258,100	\$ 197,600	\$ 192,525	\$ 197,000	\$ 845,310
LOAN	212,300	177,600	171,700	166,600	728,200
LTV	82.7%	89.8%	89.2%	84.6%	86.1%

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DANIELLE DEVELOPMENT COMPANY
CONSTRUCTION MORTGAGE, ASSIGNMENT OF LEASES
AND RENTS, SECURITY AGREEMENT AND FINANCING STATEMENT
11/17/94 175-4501-B, OAKENWALD, CHICAGO, ILLINOIS

"THIS CONSTRUCTION MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT and FINANCING STATEMENT" (herein sometimes called "Mortgage") is made as of November 11, 1994, by Danielle Development Company, Inc., ("Mortgagor") an Illinois corporation having its principal office at 300 S. Wacker Drive, Suite 1720, Chicago, IL 60606 in favor of Highland Community Bank located at 1701 W. 87th Street, Chicago, IL 60620 ("Mortgagee").

RECITALS

A. The Loan. Mortgagor is the owner of the land (the "Land") described on Exhibit A attached hereto, together with all improvements thereon. To provide funds for the Mortgagor, Mortgagee has entered into a Loan Agreement (herein, as it may from time to time be amended, supplemented or modified, referred to as the "Loan Agreement") bearing even date herewith providing for the Mortgagor's performance of certain covenants, satisfaction of certain conditions and making of certain representations and warranties, and for loans and advances to be made from time to time by Mortgagee to the Mortgagor pursuant to the terms and conditions set out therein, in an amount not to exceed One Hundred Eighty Thousand and no/100 (\$180,000) (herein, the "Loan") pursuant to the terms and conditions set forth herein.

B. The Note and Other Loan Documents. Pursuant to the Loan Agreement, Mortgagor executed and delivered to the Mortgagee a promissory note bearing even date herewith, payable to the order of the Mortgagee and is due and payable in full if not sooner paid on or before June 1, 1995, subject to acceleration or extension as provided in the Note, this Mortgage, or the other Loan Documents (defined for purposes hereof as defined in the Loan Agreement) in the original principal amount of \$180,000 (herein, such promissory note, together with any and all amendments or supplements thereto, extensions thereof and notes which may be taken in whole or partial renewal, substitution or extension thereof or which may evidence any of the indebtedness secured hereby, shall herein be called the "Note"). All principal and interest on the Note are payable in lawful money of the United States of America at the Office of the Mortgagee at 1701

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W. 87th Street, Chicago, IL 60620 or at such place as the holder thereof may from time to time appoint in writing.

C. The Secured Obligations. As used in this Mortgage, the term "Secured Obligations" means and includes all of the following: the principal of and interest on the Note; all indebtedness of any kind arising under, and all amounts of any kind which at any time become due or owing to the Mortgagee under or with respect to the Note, the Loan Agreement, this Mortgage or any of the other Loan Documents; the due and punctual performance, observance and payment of all of the covenants, obligations and agreements to be performed, observed or paid by any party thereto, other than Mortgagee in, under or pursuant to the Note, the Loan Agreement, this Mortgage, and all of the other Loan Documents, and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined), perform any obligation of the Mortgagor hereunder or collect any amount owing to the Mortgagee which is secured hereby; any and all other liabilities, obligations and indebtedness, howsoever created, arising or evidenced, direct or indirect, absolute or contingent, recourse or nonrecourse, now or hereafter existing or due or to become due, owing by the Mortgagor to the Mortgagee (provided, however, that the maximum amount included within the Secured Obligations on account of principal shall not exceed the sum of an amount equal to ten times the original principal amount of the Note plus the total amount of all advances made by the Mortgagee from time to time to protect the Collateral and the security interest and lien created hereby); interest on all of the foregoing; and all costs of enforcement and collection of the Note, the Loan Agreement, this Mortgage and the other Loan Documents, if any, and the Secured Obligations.

D. Collateral. The term "Collateral," for purposes of this Mortgage, means and includes all of the following:

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

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of the foregoing (all of the foregoing is herein referred to collectively as the "Real Estate");

(ii) Improvements and Fixtures. All buildings, structures, replacements, furnishings, fixtures, fittings and other improvements and property of every kind and character now or hereafter located or erected on the Real Estate, together with all building or construction materials, equipment, appliances, machinery, plant equipment, fittings, apparatus, fixtures and other articles of any kind or nature whatsoever now or hereafter found on, affixed to or attached to the Real Estate, including (without limitation) all motors, boilers, engines and devices for the operation of pumps, and all heating, electrical, lighting, power, plumbing, air conditioning, refrigeration and ventilation equipment (except to the extent any of the foregoing items in this subparagraph are owned by tenants and such tenants have the right to remove such items at the termination of their Lease (as hereinafter defined)) (all of the foregoing is herein referred to collectively as the "Improvements," all of the Real Estate and the Improvements, and any other property which is real estate under applicable law, is sometimes referred to collectively herein as the "Premises");

(iii) Personal Property. All goods, inventory, supplies, (including without limitation, machinery, appliances, stoves, refrigerators, water fountains and coolers, fans, heaters, incinerators, compactors, water heaters and similar equipment), signs, supplies, blinds, window shades, carpeting, floor coverings, office equipment, growing plants, fire sprinklers and alarms, control devices, equipment (including all window cleaning, building cleaning, swimming pool, recreational, monitoring, garbage, air conditioning, pest control and other equipment), tools, furnishings, furniture, light fixtures, non-structural additions to the Real Estate, and all other tangible property of any kind or character now or hereafter owned by the Mortgagor and used or useful in connection with the Real Estate, any construction undertaken on the Real Estate, any trade, business or other activity (whether or not engaged in for profit) for which the Real Estate is used, the maintenance of the Real Estate or the convenience of any tenants, guests, licensees or invitees of Mortgagor, all regardless of whether located on the Real Estate or located elsewhere (except to the extent any of the foregoing items in this subparagraph are owned by tenants and such tenants have the right to remove such items at the termination of their Leases (all of the foregoing is herein referred to collectively as the "Goods"));

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

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

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

(vii) Plans and Reports. All rights of Mortgagor to plans and specifications, designs, drawings and other matters prepared for any construction of the Real Estate, including the plans identified in the Loan Agreement (all of the following are herein called the "Plans") and all appraisals, soil tests, environmental reports and any and all other reports and analyses ("Reports");

(viii) Contracts for Construction or Services. All rights of Mortgagor under any contracts executed by Mortgagor or anyone acting on behalf of Mortgagor with any provider of goods or services for or in connection with any construction undertaken on, or services performed or to be performed in connection with, the Real Estate or the Improvements, (all of the foregoing are herein referred to collectively as the "Contracts for Construction"); and

(ix) Service Agreements. All rights and interests of Mortgagor in and under any and all service and other agreements relating to the operation, maintenance, and

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repair of the Premises or the buildings and improvements thereon ("Service Agreements");

(x) Loan Proceeds. All proceeds, contract rights and payments payable to Mortgagor under any loan commitment for financing of the Premises ("Loan Proceeds"); and

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

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

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

(xiv) Other Property. All other property or rights of the Mortgagor of any kind or character related to the

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Real Estate or the Improvements, and all proceeds (including, without limitation, insurance and condemnation proceeds) and products of any of the foregoing. It is specifically understood that the enumeration of any specific articles of property shall not exclude or be deemed to exclude any items of property not specifically mentioned. All of the Premises hereinabove described, real, personal and mixed, whether affixed or annexed or not, and all rights hereby conveyed and mortgaged are intended to be as a unit and are hereby understood and agreed and declared to be appropriated to the use of the Premises, and shall for the purposes of this Mortgage be deemed to be real estate and conveyed and mortgaged hereby.

GRANT

NOW THEREFORE, for and in consideration of Mortgagee's making the proceeds of the loan available to Mortgagor and any other financial accommodation to or for the benefit of Mortgagor, consideration of the various agreements contained herein and in the other Loan Documents, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Mortgagor, and in order to secure the full, timely and proper payment and performance of each and every one of the Secured Obligations,

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

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

PROVIDED NEVERTHELESS, that if the Mortgagor, its successors or assigns, shall:

- (a) timely pay to the Mortgagee, its successors or assigns, all payments of principal, interest, penalties, fees and all other amounts due and owing according to the terms of the Note, this Mortgage and the other Loan Documents; and
- (b) timely pay to the Mortgagee, its successors or assigns, at the times demanded and with interest thereon at the rate applicable rate of interest

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specified in the Note (a) in payment of Impositions (defined below) on the Premises, (b) in payment of insurance premiums covering improvements thereon, (c) in payment of principal and interest on prior liens, (d) in payment of expenses and attorney's fees herein provided for, and (e) in payment of all sums advanced for any other purpose authorized herein; and

- (c) keep and perform all of the covenants and agreements contained in the Note, herein and all other Loan Documents; and

then the Mortgagee shall (notwithstanding any covenants or agreements in the Environmental Indemnity Agreement or any other Loan Document that survives the performance by Mortgagor required under paragraph (3) above) release this Mortgage.

THIS MORTGAGE SECURES MANDATORY FUTURE ADVANCES TO BE MADE FROM TIME TO TIME IN ACCORDANCE WITH THE LOAN AGREEMENT.

Mortgagor hereby covenants with Mortgagee and with the purchaser at any foreclosure sale; that at the execution and delivery hereof it is well seized of the Premises, and of a good, indefeasible estate therein, in fee simple; that the Collateral is free from all encumbrances whatsoever (and any claim of any other person thereto) other than those exceptions and encumbrances permitted by Mortgagee set forth on Exhibit "B" attached hereto and made a part hereof (the "Permitted Exceptions"); that it has good and lawful right to sell, mortgage and convey the Collateral; and that Mortgagor and its successors and assigns will forever defend the Collateral against all claims and demands whatsoever.

I. COVENANTS AND AGREEMENTS OF MORTGAGOR

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

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

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1.2. Impositions.

1.2.1. Payment of Taxes. Mortgagor will pay before delinquent all taxes and assessments, general or special, and any and all levies, claims, charges, expenses and liens, ordinary or extraordinary, governmental or non-governmental, statutory or otherwise, due or to become due (collectively referred to herein as an "Imposition" or "Impositions"), that may be levied, announced, made, imposed or charged on or against the Collateral or any property used in connection therewith, and will pay before due any tax or other charge on the interest or estate in lands created or represented by this Mortgage or by any of the other Loan Documents, whether levied against Mortgagor or Mortgagee or otherwise, and will submit to Mortgagee all receipts showing payment of all of such taxes, assessments and charges.

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

1.2.2. Contest of Impositions. Mortgagor shall have the right at its own expense to contest the amount or validity, in whole or in part, of any Imposition, by appropriate proceedings diligently conducted in good faith, but only after payment of such Imposition unless such payment would operate as a bar to such contest or interfere materially with the prosecution thereof, in which event, notwithstanding the provisions of subsection 1.2.1 above, payment of such Imposition shall be postponed if and only so long as:

(i) Neither the Premises nor any part thereof would by reason of such postponement or deferment be, in the judgment of the Mortgagee, in danger of being forfeited or lost; and

(ii) Mortgagor shall, upon demand by Mortgagee, have deposited with Mortgagee the amount so contested and unpaid, together with all interest and penalties in connection therewith and all charges that may or might be assessed against or become a charge on the Premises or any part thereof in such proceedings. Upon termination of any such proceedings, it shall be the obligation of Mortgagor to pay the amount of such Imposition or part thereof as finally determined in such proceedings, the payment of which may

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have been deferred during the prosecution of such proceedings, together with any costs, fees (including counsel fees), interest, penalties or other liabilities in connection therewith. Upon such payment, Mortgagee shall return any amount deposited with it with respect to such Imposition. Mortgagee shall, if requested by Mortgagor, disburse said moneys on deposit with it directly to the imposing authority to whom such Imposition is payable. Upon failure of Mortgagor so to do, the amount theretofore deposited may be applied by Mortgagee to the payment, removal and discharge of such Imposition, the interest and penalties in connection therewith and any costs, fees (including reasonable attorney's fees) or other liability accruing in any such proceedings. The balance, if any, shall be returned to Mortgagor and the deficiency, if any, shall be paid by Mortgagor to Mortgagee within five (5) business days after demand therefor.

1.2.3. Funds for Taxes and Insurance. Upon request by Mortgagee, Mortgagor shall deposit with Mortgagee or its designee, concurrently with such request and on the first day of each month during the term thereafter, an amount sufficient to discharge the obligations of Mortgagor under Sections 1.2.1 and 1.7 hereof as and when they become due. The determination of the amount payable concurrently herewith and the fractional part to be deposited on the first day of each month thereafter with Mortgagee shall be made by Mortgagee in its discretion based on the prior year's taxes and insurance premiums and Mortgagee's estimate of the amount by which taxes and insurance premiums can be expected to rise. Said amounts shall be held by Mortgagee or its designee not in trust and not as agent of Mortgagor, and may be commingled with other funds held by Mortgagee or its designee, and said amounts shall not bear interest, and shall be applied to the payment of the obligations in respect to which the amounts were deposited or, at the option of Mortgagee, to the payment of said obligations in such order or priority as Mortgagee shall determine. If at any time within thirty (30) days prior to the due date of any of the aforementioned obligations the amounts then on deposit therefor shall be insufficient for the payment of such obligation in full, Mortgagor shall within ten (10) days after demand deposit the amount of the deficiency with Mortgagee. If the amounts deposited are in excess of the actual obligations for which they were deposited, Mortgagee may refund any such excess, or, at its option, may hold the same in a reserve account, not in trust and not bearing interest. Nothing herein contained shall be deemed to affect any right or remedy of Mortgagee under any other provision of this Mortgage or under any statute or rule of law to pay any such amount and to add the amount so paid to the Secured Obligations. All amounts so deposited shall be held by Mortgagee or its designee as additional security for the Secured Obligations secured by this Mortgage and upon the occurrence of an Event of Default hereunder

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Mortgagee may, in its sole and absolute discretion and without regard to the adequacy of its security hereunder, apply such amounts or any portion thereof to any part of the indebtedness secured hereby. Any such application of said amounts or any portion thereof to any indebtedness secured hereby shall not be construed to cure or waive any Event of Default or notice of default hereunder or invalidate any act done pursuant to any such Event of Default or notice. Mortgagor shall deliver to Mortgagee all tax bills, bond and assessment statements, statements of insurance premiums, and statements for any other obligations referred to above as soon as the same are received by Mortgagor. If Mortgagee sells or assigns this Mortgage, Mortgagee shall have the right to transfer all amounts deposited under this Section 1.2.3. to the purchaser or assignee, and Mortgagee shall thereupon be released and have no further liability hereunder for the application of such deposits, and Mortgagor shall look solely to such purchaser or assignee for such application and for all responsibility relating to such deposits.

1.3. Maintenance and Repair; Protection of Security.

(i) Mortgagor will: not abandon the Premises; not do or suffer anything to be done which would depreciate or impair the value of the Collateral or the security of this Mortgage; not remove or demolish any of the Improvements; pay promptly for all labor and materials for all construction, repairs and improvements to or on the Premises; not make any changes, additions or alterations to the Premises or the Improvements, except as required by applicable governmental requirements or as otherwise approved in writing by Mortgagee; maintain, preserve and keep the Goods and the Improvements in good, safe and insurable condition and repair and promptly make any needful and proper repairs, replacements, renewals, additions or substitutions required by wear, damage, obsolescence or destruction; promptly restore and replace any of the Improvements or Goods which are destroyed or damaged; not commit, suffer, or permit waste of any part of the Premises; and maintain all grounds and abutting sidewalks in good and neat order and repair.

(ii) Mortgagor shall promptly notify Mortgagee of and appear in and defend any suit, action or proceeding that affects the Premises or the rights or interest of Mortgagee hereunder and the Mortgagee may elect to appear in or defend any such action or proceeding. Mortgagor agrees to indemnify and reimburse Mortgagee from any and all loss, damage, expense or cost arising out of or incurred in connection with any such suit, action or proceeding, including costs of evidence of title and reasonable attorneys' fees and such amounts together with interest thereon at the Interest Rate, shall become additional

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Secured Obligations and shall become immediately due and payable.

1.4. Sales; Liens. Mortgagor shall not:

(i) directly or indirectly sell, contract to sell if possession of the Premises is to be transferred prior to the closing date (such as an installment agreement for deed), assign, transfer, convey, or dispose of the Premises, or any part thereof or any interest or estate therein, whether legal, equitable, beneficial or possessory (including (a) any conveyance into trust, (b) any conveyance, sale or assignment of the beneficial interest in any trust holding title to the Premises, (c) any conveyance, sale or assignment of or any part of any general partner's interest in a partnership holding title to the Premises or a partnership beneficiary of a trust holding title to the Premises, or (d) the sale, conveyance or assignment of all or substantially all of the issued and outstanding capital stock which has voting rights of a corporation holding title to the Premises or a corporate beneficiary of a trust holding title to the Premises, or permit or contract or agree to do any of the foregoing;

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

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

(iv) lease the Premises.

1.5. Access by Mortgagee. The Mortgagor will at all times deliver to Mortgagee either all of its executed originals (in the case of chattel paper or instruments) or certified copies (in all other cases) of all leases, agreements creating or evidencing Intangibles, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral; permit access by Mortgagee and its agents, representatives, contractors and participants (if any) during

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normal business hours to its books and records, tenant registers, offices, insurance policies and other papers for examination and the making of copies and extracts; prepare such schedules, summaries, reports and programs schedules as Mortgagee and its agents, representatives, contractors and participants (if any) may reasonably request; and permit Mortgagee and its agents, representatives, contractors and participants (if any), at all reasonable times, to enter onto and inspect the Premises.

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

1.7 Insurance

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

(i) Casualty Insurance: insurance covering the Premises and the Goods in the event of fire, lightning, windstorm, vandalism, malicious mischief and all other risks normally covered by "all risk" coverage policies in Chicago, Illinois in an amount equal to 100% of the replacement value thereof (but in no event less than \$180,000), together with any Agreed Amount Replacement Endorsement;

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(ii) Comprehensive General Public Liability Insurance: comprehensive general public liability insurance (including coverage for elevators and escalators, if any, contractual liability, explosion, underground property, and broad form property damage endorsement, against claims for bodily injury, death or property damage occurring or caused by events occurring on, in or about the Premises and by events occurring on, in or about the Premises and adjoining streets and sidewalks, in such minimum combined single limit amount as Mortgagee shall from time to time determine;

(iii) Workers' Compensation Insurance: during the course of any construction or repair of the Premises, Worker's Compensation and employer's liability insurance covering its employees in such amount as is required by law;

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

(v) Contents Insurance: Fire and Extended Coverage Insurance (contents broad form) and Sprinkler Leakage Insurance on Mortgagor's personal property located on the Premises, and on all improvements or betterment constructed by Mortgagor, in amounts sufficient to full insure such personal property;

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

(vii) Business Interruption/Rent Loss Insurance: Business Interruption Insurance with loss of rents endorsement in amounts as Mortgagee shall request but in no amount less than the aggregate of the amount of the monthly Rent for the next succeeding twelve (12) month period;

(viii) Plate Glass: plate glass (which may be self-insured by Mortgagor upon the prior written consent of Mortgagee), sprinkler, garage and machinery explosion and pressurized vessel insurance.

All insurance shall be in such amounts satisfactory to the Mortgagee, and all to be maintained in such form and with such companies as shall be approved by the Mortgagee. Mortgagor shall deliver to and keep deposited with the Mortgagee original

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certificates and certified copies of all policies of such insurance and renewals thereof, with premiums prepaid, and with standard non-contributory mortgagee and loss payable clauses satisfactory to the Mortgagee, and clauses providing for not less than thirty (30) days' prior written notice to the Mortgagee of cancellation or material modification of such policies, attached thereto in favor of the Mortgagee. All of the above-mentioned original insurance policies or certified copies of such policies and certificates of such insurance satisfactory to Mortgagee, together with receipts for the payment of premiums thereon, shall be delivered to and held by Mortgagee, which delivery shall constitute assignment to Mortgagee of all return premiums to be held as additional security hereunder. All renewal and replacement policies shall be delivered to Mortgagee at least thirty (30) days before the expiration of the expiring policies.

If Mortgagor shall fail to obtain or to maintain any of the policies required by this Section or to pay any premium relating thereto or to renew any such policies and to deliver evidence of such renewal to Mortgagee no later than twenty (20) days prior to the expiration of the existing policy, then Mortgagee, without waiving or releasing any obligation or default by Mortgagor hereunder and whether or not such failure is an Event of Default hereunder, without notice to Mortgagor, may (but shall be under no obligation to do so) obtain and maintain such policies of insurance and pay such premiums and take any other action with respect thereto which Mortgagee deems advisable. All sums so disbursed by Mortgagee pursuant to this Section 1.7.1, including costs relating thereto, shall be payable by Mortgagor to Mortgagee within five (5) Business Days after demand therefor plus interest thereon at the Default Rate, and shall be additional Secured Obligations.

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

1.7.2 Repair of Damage. If the Premises shall be destroyed or damaged in whole or in part, by fire or other casualty (including any casualty for which insurance was not obtained or obtainable) of any kind of nature, ordinary or extraordinary, foreseen or unforeseen, Mortgagor shall give to Mortgagee immediate notice thereof. Mortgagor, at its own cost and expense, whether or not such damage or destruction shall have

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been insured, and whether or not insurance proceeds, if any, shall be sufficient for the purpose, shall promptly repair, alter, restore, replace and rebuild the same, at least to the extent of the value and as nearly as possible to the character of the Premises existing immediately prior to such occurrence. Mortgagee shall in no event be called upon to repair, alter, replace, restore or rebuild such Premises, or any portion thereof, nor to pay any of the costs or expenses thereof.

1.7.3. Settlement of Loss. Mortgagee is authorized to (A) settle and adjust any claim under such insurance policies which insure against such risk or (B) allow Mortgagor to agree with the insurance company or companies on the amount to be paid in regard to such loss. Notwithstanding the foregoing, Mortgagor is authorized to settle and adjust any claim in an amount which does not exceed \$5,000 under such insurance policies.

1.7.4. Application of Insurance Proceeds. In all events, Mortgagee is authorized to collect and receipt for any such insurance monies, and such insurance proceeds may, at the option of the Mortgagee, be: (i) applied in reduction of the Secured Obligations, whether due or not; or (ii) held by the Mortgagee and applied to pay for the cost of repair, rebuilding or restoration of the buildings and other improvements on the Premises.

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

1.8. Eminent Domain. In case the Collateral, or any part or interest therein, is taken by condemnation, Mortgagee is hereby empowered to collect and receive all compensation and

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awards of any kind whatsoever (referred to collectively herein as "Condemnation Awards") which may be paid for any property taken or for damages to any property not taken, all of which Mortgagor hereby assigns to Mortgagee. Mortgagor hereby empowers Mortgagee, to settle, compromise and adjust any and all claims or rights arising under any condemnation or eminent domain proceeding relating to the Collateral or any portion thereof. All Condemnation Awards so received shall be forthwith applied by Mortgagee, as it may, in its sole and absolute discretion elect, to the prepayment of the Note or any other Secured Obligations, or to the repair and restoration of any property so taken or damaged. In the event the Condemnation Awards are, in Mortgagee's sole and absolute discretion, to be made available to Mortgagor for repair of the Premises, such proceeds shall be disbursed to Mortgagor pursuant to such terms and conditions as Mortgagee may in its sole discretion require.

1.9. Governmental Requirements.

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

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At all times the environmental and ecological condition of the Premises shall not be in violation of any law, ordinance, rule or regulation applicable thereto; the soil, surface, water and ground water of or on the Premises shall be free from any solid waste, toxic, hazardous or special substances or contaminants; and the Premises shall not be used for the manufacture, refinement, treatment, storage, hauling or disposal of any such material. No "Hazardous Materials" (as hereinafter defined) shall be discharged, dispersed, released, stored, treated, generated, disposed of, or allowed to escape on the Premises in violation of the Environmental Laws; no asbestos or asbestos-containing materials shall be installed, used, incorporated into or disposed of on the Premises; no polychlorinated biphenyls ("PCBs") will be located on, in, or used in connection with the Premises; no underground storage tanks shall be located on the Premises; and the Premises shall be in compliance with all applicable federal, state and local statutes, laws, regulations, ordinances, orders, or codes relating to environmental matters.

"Hazardous Materials" means asbestos, PCBs, and any hazardous, toxic or special substance, material or waste that is regulated by any governmental authority, including the State of Illinois or the United States government and includes, without limitation, any material, substance or waste that is (i) designated as such pursuant to Section 307 of the Federal Water Pollution Control Act 33 U.S.C. §1251 et seq. (33 U.S.C. §1317); (ii) defined as such pursuant to §1004 of the Federal Resource Conservation and Recovery Act 42 U.S.C. §6901 et seq. (42 U.S.C. §6903); (iii) defined as such pursuant to §101 of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 et seq. (42 U.S.C. §1601); or (iv) designated or defined under any applicable federal or state statute or county or municipal law, regulation, ordinance, order or code, in each case as amended.

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1.9.2. Contest of Laws. Mortgagor shall have the right, after prior notice to Mortgagee and so long as there exists no material threat to the priority of the lien of the Mortgage, the Loan Documents or the value of the Collateral, to contest by appropriate legal proceedings conducted in the name of Mortgagor, the validity or application of any ordinances, requirements, regulations, rules, orders and decrees of the nature referred to in subsection 1.9.1. above. Mortgagor shall indemnify and hold Mortgagee harmless from any cost, expense, liability or damage, including reasonable attorney's fees, relating to such contest.

1.10. Mechanics' Liens.

1.10.1. Prohibitions Against Liens. Subject to Mortgagor's rights set forth in Sections 1.10.2 Mortgagor will not permit any mechanics' or other construction lien under the laws of Illinois

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to be recorded against or attach to the Premises or any part thereof. In addition, it is further expressly made a covenant and condition hereof that the lien of this Mortgage shall extend to any and all improvements and fixtures now or hereafter on the Premises, prior to any other lien thereon that may be claimed by any person, so that subsequently accruing claims for lien on the Premises shall be junior and subordinate to this Mortgage. ALL CONTRACTORS, SUBCONTRACTORS, AND OTHER PARTIES DEALING WITH THE PREMISES, OR WITH ANY PARTIES INTERESTED THEREIN, ARE HEREBY REQUIRED TO TAKE NOTICE OF THE ABOVE PROVISIONS.

1.10.2. Discharge of Mechanic's Liens. If any mechanic's, laborer's or materialmen's lien shall at any time be filed against the Premises or any part thereof, Mortgagor, within 30 days after notice of the filing thereof, shall cause the same to be discharged of record or otherwise stayed by payment, deposit, order of a court of competent jurisdiction or otherwise or bonded or insured over by a title insurance company acceptable to Mortgagee (the "Title Company"). If Mortgagor shall fail to cause such lien to be discharged, stayed within such period or bonded or insured over by the Title Company within such period then, in addition to any other right or remedy, Mortgagee may, but shall not be obligated to, discharge the same either by paying the amount claimed to be due or by procuring the discharge of such lien by deposit or by bonding proceedings, and in any such event Mortgagee shall be entitled, if Mortgagee so elects, to compel the prosecution of an action for the foreclosure of such lien by the lienor and to pay the amount of the judgment in favor of the lienor, with interest, costs and allowances. In any event, if any suit, action or proceedings shall be brought to foreclose or enforce any such lien (whether or not the prosecution thereof was so compelled by Mortgagee), Mortgagor shall, at its own sole cost and expense, promptly pay, satisfy and discharge any final judgment entered therein, in default of which Mortgagee, at its option, may three (3) days after notice thereof, do so. Any and all amounts so paid by Mortgagee as in this paragraph provided, and all costs and expenses paid or incurred by Mortgagee in connection with any or all of the foregoing matters, including, without limitation, reasonable attorneys' fees and disbursements shall become due and payable within five (5) days after notice thereof, such amounts, charges, costs, expenses, fees and sums, together with interest thereon at the default rate of interest, specified under the Note.

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1.10.3. Right to Contest Liens. Notwithstanding anything to the contrary contained herein, Mortgagor may, in good faith and with due diligence, contest the validity or amount of any lien not expressly subordinated to the lien hereof and defer payment and discharge thereof during the pending of such contest, provided: (i) that such contest shall have the effect of preventing the sale or forfeiture of the Premises or any part thereof, or any interest therein, to satisfy such lien; (ii)

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that, within ten (10) days after Mortgagor has been notified of the assertion of such lien, Mortgagor shall have notified Mortgagee in writing of Mortgagor's intention to contest such lien; and (iii) that Mortgagor shall either (A) have deposited with Mortgagee, upon demand by Mortgagee, a sum of money which shall be sufficient in the sole discretion of Mortgagee to pay in full such lien and all interest which might become due thereon or (B) have insured or bonded over such lien in accordance with Section 1.10.2 Such deposits, if in cash, are to be held without interest. If Mortgagor shall fail to prosecute such contest with reasonable diligence or shall fail to pay the amount of the lien plus any interest finally determined to be due upon the conclusion of such contest, to the extent such amount exceeds the amount which Mortgagee will pay as provided below, or shall fail to maintain sufficient funds on deposit as hereinabove provided, Mortgagee may, at its option, apply the money so deposited in payment of or on account of such lien, or that part thereof then unpaid, together with all interest thereon. If the amount of money so deposited shall be insufficient for the payment in full of such lien, together with all interest thereon, Mortgagor shall forthwith, upon demand, deposit with Mortgagee a sum which, when added to the funds then on deposit, shall be sufficient to make such payment in full. Mortgagee shall, upon the full disposition of such contest, apply the money so deposited in full payment of such lien or that part thereof then unpaid, together with all interest thereon, (provided Mortgagor is not then in default hereunder) when so requested in writing by Mortgagor and when furnished by Mortgagor with sufficient funds to make such payment in full and with evidence satisfactory to Mortgagee of the amount of payment to be made.

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

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writing, except for deposits by tenants of the Premises to secure such tenant's performance of its obligations under its Lease.

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

1.13. Contract Maintenance; Other Agreements. Mortgagor will, for the benefit of Mortgagee, fully and promptly keep, observe, perform and satisfy each obligation of Mortgagor, condition, covenant, and restriction affecting the Premises or imposed on it under any agreement between Mortgagor and a third party relating to the Collateral or the Secured Obligations, including without limitation the Contract for Construction and Architect's Agreement (herein collectively the "Third Party Agreements"), so that there will be no default under such Third Party Agreements and so that the persons (other than Mortgagor) obligated thereon shall be and remain at all times obligated to perform for the benefit of the Mortgagee. Except as expressly contemplated in the Loan Agreement, Mortgagor will not permit to exist any condition, event or fact which could allow or serve as a basis or justification for any such person to avoid such performance. Without the prior written consent of Mortgagee, Mortgagor shall not make or permit any termination or amendment of any Third Party Agreement, unless and until each of the following are satisfied:

(i) the termination or amendment of the Third Party Agreement would not adversely affect the performance by Mortgagor of its obligations and duties under any of the Loan Documents; and

(ii) in the event a Third Party Agreement is terminated prior to the complete performance of the third party and such performance is required to complete the construction of the Improvements or pay the amount due hereunder on the Maturity Date, Mortgagor will enter into an agreement with another third party, upon substantially similar terms and conditions as the Third Party Agreement that had been terminated.

Mortgagor shall keep, observe, perform and comply with all covenants, conditions and restrictions affecting the Premises and other instruments relating to or affecting the Collateral, notwithstanding any default of a third party under the terms and provisions of any Third Party Agreement.

1.14. Notify Mortgagee of Default. Mortgagor shall notify Mortgagee in writing within five (5) days after the date on which it becomes aware of or receives notice of the occurrence of any Event of Default or other event which, upon the giving of notice

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or the passage of time or both, would constitute an Event of Default hereunder or under any of the other Loan Documents.

1.15. No Assignments; Future Leases. Mortgagor will not cause or permit (by operation of law or otherwise) any Rents, Leases, or other contracts relating to the Premises to be assigned, to any party other than Mortgagee without first obtaining the express written consent of Mortgagee to any such assignment or permit any such assignment to occur by operation of law. In addition, Mortgagor shall not cause or permit all or any portion of or interest in the Premises or the Improvements to be leased (that word having the same meaning for purposes hereof as it does in the law of landlord and tenant) directly or indirectly to any person, except pursuant to written leases in the ordinary course of business.

1.16. Mortgagor To Comply With Leases. Mortgagor will, at its own cost and expense:

(i) Faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any leases of the Premises to be performed by the landlord thereunder;

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

(iii) Not borrow against, pledge or further assign any rentals due under said leases;

(iv) Not permit the prepayment of any rents due under any lease for more than thirty (30) days in advance nor for more than the next accruing installment of rents, nor anticipate, discount (other than front-end incentives such as rent abatement), compromise, forgive or waive any such rents;

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

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

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(vii.) Not terminate any lease or accept a surrender thereof or a discharge of the tenant unless required to do so by the terms of its lease or unless the Mortgagor and tenant or another equally financially responsible tenant shall have executed a new lease effective upon such termination for the same term of years at a rental not less than as provided in the terminated lease and on terms no less favorable to the landlord than as in the terminated lease;

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

(ix.) Not amend or modify any lease or alter the obligations of the parties thereunder.

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

1.18. Assignment of Rents, Leases and Profits. The Mortgagor does hereby sell, assign, and transfer unto Mortgagee all of the Rents, Leases and profits from the Premises, it being the intention of this Mortgage to establish an absolute transfer and assignment of all such Rents, Leases and profits from and on the Premises unto the Mortgagee and the Mortgagor does hereby appoint irrevocably the Mortgagee its true and lawful attorney in its name and stead, which appointment is coupled with an interest, to collect all of said rents and profits; provided, Mortgagee grants the Mortgagor the privilege to collect and retain such rents, income, and profits unless and until an Event of Default exists under this Mortgage. Upon the occurrence of an Event of Default, and whether before or after the institution of legal proceedings to foreclose the lien hereof or before or after sale of the Premises or during any period of redemption, the Mortgagee, without regard to waste, adequacy of the security or solvency of the Mortgagor, may revoke the privilege granted Mortgagor hereunder to collect the rents, issues and profits of the Premises, and may, at its option, without notice:

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(1) In person or by agent, with or without taking possession of or entering the Premises, with or without bringing any action or proceeding, give, or require Mortgagor to give, notice to any or all tenants under any lease authorizing and directing the tenant to pay such rents and profits to Mortgagee; collect all of the rents, issues and profits; enforce the payment thereof and exercise all of the rights of the landlord under any lease and all of the rights of Mortgagee hereunder; enter upon, take possession of, manage and operate said Premises, or any part thereof; cancel, enforce or modify any leases, and fix or modify rents, and do any acts which the Mortgagee deems proper to protect the security hereof with or without taking possession of said Premises; and

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

- (a) to payment of all reasonable fees of any receiver appointed hereunder;
- (b) to application of tenant's security deposits;
- (c) to payment when due of prior or current real estate taxes or special assessments with respect to the Premises or, if the Mortgage so requires, to the periodic escrow for payment of the taxes or special assessments when due;
- (d) to payment when due of premiums for insurance of the type required by the Mortgage or, if the Mortgage so requires, to the periodic escrow for the payment of premiums then due;
- (e) to payment of all expenses for normal maintenance of the Premises;
- (f) if received prior to a foreclosure sale, such amounts shall be paid to the Mortgagee and deposited with Mortgagee for application as provided for therein; provided, if the Premises shall be foreclosed and sold pursuant to a foreclosure sale, then during the period of redemption from such foreclosure sale:

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

The entering upon and taking possession of the Premises, the collection of such rents and profits and the application thereof as aforesaid shall not cure or waive any defaults under this Mortgage nor in any way operate to prevent the Mortgagee from pursuing any other remedy which it may now or hereafter have under the terms of this Mortgage nor shall it in any way be deemed to constitute the Mortgagee a mortgagee-in-possession. The rights and powers of the Mortgagee hereunder shall remain in full force and effect both prior to and after any foreclosure of the Mortgage and any sale pursuant thereto and until expiration of the period of redemption from said sale, regardless of whether a deficiency remains from said sale. The purchaser at any foreclosure sale, including the Mortgagee, shall have the right, at any time and without limitation, to advance money to any receiver appointed hereunder to pay any part or all of the items which the receiver would otherwise be authorized to pay if cash were available from the Premises and the sum so advanced, with interest at the Interest Rate, shall be a part of the sum required to be paid to redeem from any foreclosure sale. The rights hereunder shall in no way be dependent upon and shall apply without regard to whether the Premises are in danger of being lost, materially injured or damaged or whether the Premises are adequate to discharge the Secured Obligations. The rights contained herein are in addition to and shall be cumulative with the rights given in any separate instrument, if any, assigning any leases, rents and profits of the Premises and shall not amend or modify the rights in any such separate agreement.

1.19. Maintenance of Existence. The Mortgagor will do all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its incorporation, or formation, as the case may be, and will comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagor or to the Premises or any part thereof. Mortgagor shall not liquidate, terminate, consolidate, merge or voluntarily dissolve.

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

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

existence and benefit Mortgagee in securing the Secured Obligations.

II. DEFAULT

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

2.1. Payment; Performance.

(i) Failure to make any payment of principal, interest, fees or any other amount due under the Note or this Mortgage within ten (10) days after the due date thereof; or

(ii) Failure to pay any of the other Secured Obligations, when and as the same shall become due and payable, whether at maturity or by acceleration or otherwise within ten (10) days after the due date thereof; or

(iii) except as specifically set forth in any other provision of this Article II., default in the timely and proper performance of any of the covenants or agreements of Mortgagor contained herein, and the continuation of such failure for thirty (30) days after written notice thereof is given to Mortgagor by Mortgagee; or

(iv) default in the full and timely performance of any of the covenants or agreements of Mortgagor, any Guarantor or any one or more of them, as applicable, contained in the Note, the Guaranty or in any of the other Loan Documents, provided that to the extent (if any) that such other document or instrument provides a grace or cure period with respect to such default, the same grace or cure period, and only such period, shall apply with respect thereto under this Mortgage; or

(v) default in the performance of any covenant or agreement set forth in Sections 1.4. or 1.9 herein.

2.2. Receiver, Suspension, Attachment. The appointment, pursuant to an order of a court of competent jurisdiction, of a trustee, receiver or liquidator of the Collateral or any part thereof, or of Mortgagor, or any termination or voluntary suspension of the transaction of business of Mortgagor, or any attachment, execution or other judicial seizure of all or any substantial portion of Mortgagor's assets which attachment, execution or seizure is not discharged within, sixty (60) days.

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2.3. Miscellaneous. If Mortgagor is other than a natural person or persons, without the prior written consent of Mortgagee in each case, (a) the dissolution or termination of existence of Mortgagor, voluntarily or involuntarily; or (b) the amendment or modification in any material respect of Mortgagor's articles or agreement of partnership or its corporate resolutions relating to this transaction or its articles of incorporation or bylaws.

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

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

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

2.7. Condemnation/Eminent Domain. Proceedings are formally commenced by any public or quasi-public body to acquire the land, the Premises or any interest in or any part of any of them by condemnation, eminent domain or any similar power or authority, and such proceeding are not dismissed within sixty (60) days of their being instituted, unless in the Mortgagee's opinion such acquisition would not materially interfere with the intended uses of the Premises.

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

2.9. Creditor's Rights. The Mortgagor or any guarantor or the indebtedness shall fail to pay its debts, make an

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assignment for the benefit of its creditors, or shall commit an act of bankruptcy, or shall admit in writing its inability to pay its debts as they become due, or shall seek a composition, readjustment, arrangement, liquidation, dissolution or insolvency proceeding under any present or future state or law, or shall file a petition under any chapter of the Federal Bankruptcy Code or any similar law, state or federal, now or hereafter existing, or shall become "insolvent" as that term is generally defined under the Federal Bankruptcy Code, or shall in any involuntary bankruptcy case commenced against it file an answer admitting bankruptcy case commenced against it file an answer admitting insolvency or inability to pay its debts as they become due, or shall fail to obtain a dismissal of such case within sixty (60) days after its commencement or convert the case from one chapter of the Federal Bankruptcy Code to another chapter, or be the subject of an order for relief in such bankruptcy case, or be adjudged a bankrupt or insolvent, or shall have a custodian, trustee or receiver appointed for, or have any court take jurisdiction of its property, or any part hereof, in any proceeding for the purpose of reorganization, arrangement, dissolution or liquidation, and such custodian, trustee, liquidator or receiver shall not be discharged, or such jurisdiction shall not be relinquished, vacated or stayed within sixty (60) days of the appointment.

2.10. Death or Dissolution. If Mortgagor shall cease to be a legal entity, either by dissolution or merger or in any other means, or the death or incompetency of any Guarantor of the indebtedness.

III. REMEDIES

3.1 Acceleration. Upon the occurrence of any Event of Default, the entire indebtedness evidenced by Note and all other Secured Obligations, together with interest thereon at the rate applicable after maturity as provided in the Note, shall, at the option of Mortgagee, notwithstanding any provisions thereof and without presentment, demand, protest or notice of any kind to Mortgagor or to any other person become and be immediately due and payable.

3.2 Remedies Cumulative. No remedy or right of Mortgagee hereunder or under the Note or any of the other Loan Documents or otherwise, or available under applicable law, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Event of Default shall impair any such remedy or right or be construed to be a waiver of any such Event of Default or an acquiescence therein, nor shall it affect any subsequent Event of Default of the same or a different nature. Every such remedy or right may be exercised concurrently

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or independently, and when and as often as may be deemed expedient by Mortgagee. All obligations of Mortgagor, and all rights, powers and remedies of Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in the Note or any other Loan Documents or any other written agreement or instrument relating to any of the Secured Obligations or any security therefor.

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

3.4. Foreclosure; Receiver. Upon the occurrence of any Event of Default, Mortgagee shall also have the right immediately or at any time thereafter to foreclose this Mortgage. Upon the filing of any complaint for that purpose, the court in which such complaint is filed may, upon application of Mortgagee or at any time thereafter, either before or after foreclosure sale, and without notice to Mortgagor or to any party claiming under Mortgagor and without regard to the solvency or insolvency at the time of such application of any person then liable for the payment of any of the Secured Obligations, without regard to the then value of the Premises or whether the same shall then be occupied, in whole or in part, as a homestead, by the owner of the equity of redemption, and without regarding any bond from the complainant in such proceedings, appoint a receiver for the benefit of Mortgagee, with power to take possession, charge, and

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control of the Premises, to lease the same, to keep the buildings thereon insured and in good repair, and to collect all Rents during the pendency of such foreclosure suit, and, in case of foreclosure sale and a deficiency, during any period of redemption.

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

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

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

3.5. Remedies for Loans and Rents. If any Event of Default shall occur, then, whether before or after institution of legal proceedings to foreclose the lien of this Mortgage or before or after the sale thereunder, Mortgagee shall be entitled, in its discretion, to do all or any of the following:

(i) enter and take actual possession of the Premises, the Rents, the Leases and other Collateral relating thereto or any part thereof personally, or by its agents or attorneys, and exclude Mortgagor therefrom;

(ii) enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of Mortgagor relating thereto;

(iii) as attorney-in-fact or agent of Mortgagor, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Premises, the Rents, the Leases and other Collateral relating thereto and conduct the business, if any, thereof (including entering into new leases of the Premises, or any part thereof, under such terms and conditions as Mortgagee, in its sole and absolute discretion, may elect) either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its discretion or in the discretion of its successors or assigns may be deemed proper or necessary to enforce the payment of the Rents, the Leases and other Collateral relating thereto (including actions for the recovery of rent, actions in forcible detainer and actions in distress of rent);

(iv) cancel or terminate any Lease or sublease for any cause or on any ground which would entitle Mortgagor to cancel the same;

(v) elect to disaffirm any Lease or sublease made subsequent hereto or subordinated to the lien hereof;

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(vi.) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements to the Premises that, in its reasonable discretion, may seem appropriate;

(vii.) insure and reinsure the Collateral for all risks incidental to Mortgagee's possession, operation and management thereof; and

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

Mortgagor hereby granting Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after any Event of Default without notice to Mortgagor or any other person. Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may, in its sole and absolute discretion, determine: (a) to the payment of the operating expenses of the Premises, including the cost of management and leasing thereof (which shall include reasonable compensation to Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include lease commissions and other compensation and expenses of seeking and procuring tenants and entering into leases), established claims for damages, if any, and premiums on insurance hereinabove authorized; (b) to the payment of taxes, charges and special assessments, the costs of all repairs, decorating, renewals, replacements, alterations, additions, betterments and improvements of the Collateral, including the cost from time to time of installing, replacing or repairing the Collateral, and of placing the Collateral in such condition as will, in the judgment of Mortgagee, make it readily rentable; (c) to the payment of any Secured Obligations; and (d) to the payment of any other cost or expense required or permitted hereunder, including without limitation those expenses set forth in subsections 3.4(i) through (vi) hereof.

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

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referred to in this Section 3.5 may be taken by Mortgagee irrespective of and without regard to the adequacy of the security for the indebtedness hereby secured.

3.6. Personal Property. Whenever there exists an Event of Default hereunder, Mortgagee may exercise from time to time any rights, powers and remedies available to it under applicable law and as may be provided in this Mortgage, the Note and the other Loan Documents upon default in the payment of any indebtedness. Mortgagor shall, promptly upon request by Mortgagee, assemble the Collateral and make it available to Mortgagee at such place or places, reasonably convenient for both Mortgagee and Mortgagor, as Mortgagee shall designate. Any notification required by law of intended disposition by Mortgagor of any of the Collateral shall be deemed reasonably and properly given if given at least ten (10) days before such disposition.

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

Mortgagee may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code or other applicable law as in effect from time to time or otherwise available to it under applicable law. Mortgagor hereby expressly waives presentment, demand, notice of dishonor, protest and notice of protest in connection with the Note and, to the fullest extent permitted by applicable law, any and all other notices, demands, advertisements, hearings or process of law in connection

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with the exercise by Mortgagee of any of its rights and remedies hereunder. Mortgagor hereby constitutes Mortgagee its attorney-in-fact with full power of substitution to take possession of the Collateral upon any Event of Default and, as Mortgagee in its sole discretion deems necessary or proper, to execute and deliver all instruments required by Mortgagee to accomplish the disposition of the Collateral; this power of attorney is a power coupled with an interest and is irrevocable while any of the Secured Obligations are outstanding.

3.7. No Liability on Mortgagee. Notwithstanding anything contained herein, Mortgagee shall not be obligated to perform or discharge, and does not hereby undertake to perform or discharge, any obligation, duty or liability of Mortgagor and Mortgagor shall and does hereby agree to indemnify against and hold Mortgagee harmless of and from: any and all liabilities, losses or damages which Mortgagee may incur or pay under or with respect to any of the Collateral or under or by reason of its exercise of rights hereunder and any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in any of the Collateral or in any of the contracts, documents or instruments evidencing or creating any of the Collateral, unless such liability, claim, cost or demand is caused solely by Mortgagee's wilful misconduct. Mortgagee shall not have responsibility for the control, care, management or repair of the Premises or be responsible or liable for any negligence in the management, operation, upkeep, repair or control of the Premises resulting in loss, injury or death to any tenant, licensee, employee, stranger or other person. No liability shall be enforced or asserted against Mortgagee in its exercise of the powers herein granted to it, and Mortgagor expressly waives and releases any such liability. Should Mortgagee incur any such liability, loss or damage under any of the Leases or under or by reason hereof, or in the defense of any claims or demands, Mortgagor agrees to reimburse Mortgagee immediately upon demand for the full amount thereof, including costs, expenses and reasonable attorneys' fees.

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

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IV. GENERAL

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

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

4.3. Loan Documents. Mortgagor covenants that it will timely and fully perform and satisfy all the terms, covenants and conditions of any and all Loan Documents under which it is obligated.

4.4. Security Agreement; Fixture Filing. This Mortgage, to the extent that it conveys or otherwise deals with personal property or with items of personal property which are or may become fixtures, shall also be construed as a security agreement under the Uniform Commercial Code as in effect in the state in which the Premises are located, and this Mortgage constitutes a financing statement filed as a fixture filing in the Official

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Records of the County Recorder of the County in which the Premises are located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any Goods or other personal property that may now be or hereafter become such fixtures.

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

If to Mortgagor: Daniela Development Company
300 S. Wacker Drive
Suite 1720
Chicago, Illinois 60606
Attn: Gloria Carney Shealey, president

If to Mortgagee: Highland Community Bank
1701 W. 87th Street
Chicago, Illinois 60620
Attn: George R. Brokmond, president

any party hereto may, by notice given hereunder designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Notices delivered by facsimile or telecopy shall not be deemed sufficient.

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

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

4.8. Application of Payments. Notwithstanding anything to the contrary contained herein or in any other Loan Document, Mortgagee shall have the sole, exclusive and unreviewable right unilaterally, and without notice to or the consent of any person) to allocate any and all payments which may be received by or tendered to Mortgagee made by the Mortgagor or any other person (including, without limitation, any guarantor now or hereafter existing) at any time or from time to time and which relate in any way to the sums advanced under the Note, hereunder or any of the other Loan Documents, in any order of priority as Mortgagee, in its sole and exclusive discretion determines to: (i) the payment of any costs and expenses incurred by Mortgagee to enforce any rights hereunder or under the other Loan Documents or to preserve or protect the Property, (ii) accrued but unpaid interest, penalties and late payment fees, (iii) principal.

4.9. Representation by Counsel. Mortgagor hereby represents and warrants that Mortgagor has been represented by competent counsel of its choice in the negotiation and execution of this Mortgage, the Note and the other Loan Documents, and that Mortgagor has read and understood this Mortgage, the Note and the other Loan Documents and intends to be bound hereby.

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

4.11. No Waiver; Writing. No delay on the part of Mortgagee in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by Mortgagee of any right or remedy shall preclude other or further exercise

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thereof or the exercise of any other right or remedy. The granting or withholding of consent by Mortgagee to any transaction as required by the terms hereof shall not be deemed a waiver of the right to require consent to future or successive transactions.

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

4.13. Waiver. Mortgagor, on behalf of itself and all persons now or hereafter interested in the Premises or the Collateral, to the fullest extent permitted by applicable law hereby waives all rights under all appraisement, homestead, moratorium, valuation, exemption, stay, extension, and redemption statutes, laws or equities now or hereafter existing, and hereby further waives the pleading of any statute of limitations as a defense to any and all Secured Obligations secured by this Mortgage, and Mortgagor agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Mortgage or any of this Collateral. Without limiting the generality of the preceding sentence, Mortgagor, on its own behalf and on behalf of each and every person acquiring any interest in or title to the Premises subsequent to the date of this Mortgage, hereby irrevocably waives any and all rights of redemption from sale under any order 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. Mortgagor, 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 Collateral shall be sold in the event of any sale or sales pursuant hereto and to have any of the Collateral and/or any other property now or hereafter constituting security for any of the indebtedness secured hereby marshalled upon any foreclosure of this Mortgage or of any other security for any of said indebtedness.

4.14. No Merger. It being the desire and intention of the parties hereto that this Mortgage and the lien hereof do not merge in fee simple title to the Premises, it is hereby

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understood and agreed that should Mortgagee acquire an additional or other interests in or to the Premises or the ownership thereof, then, unless a contrary intent is manifested by Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the lien hereof shall not merge in the fee simple title, toward the end that this Mortgage may be foreclosed as if owned by a stranger to the fee simple title.

4.15. Mortgagee Not a Joint Venturer or Partner.

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

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

4.17. Construction Loan Agreement. Mortgagor has executed and delivered to and with the Mortgagee the Loan Agreement in connection with the construction and erection of certain improvements upon the Real Estate and the disbursement of all or any part of the indebtedness for the purpose of financing the costs thereof, a portion of which loan may be disbursed on a revolving basis. The Loan Agreement is hereby incorporated herein by this reference as fully and with the same effect as if set forth herein at length. Mortgagor hereby agrees to duly and punctually perform, observe and pay or cause to be duly performed, observed and paid all of the terms, conditions, provisions and payments provided for in the Loan Agreement to be performed, observed or paid by any party thereto other than Mortgagee. If there shall be any inconsistency between provisions of this Mortgage and the Loan Agreement, Mortgagee shall have the option of determining which of such inconsistent provisions shall prevail.

4.18. Construction Mortgage Obligatory Future Advances.

(a) Mortgagor covenants and agrees that, in accordance with the provisions of the Loan Agreement, all of the funds advanced and to be advanced hereunder and thereunder have been and will be used exclusively to pay the costs of acquiring the Land and the construction of the Improvements and that this instrument constitutes a "Construction Mortgage" within the meaning of Section 9.313(c) of the Illinois Uniform Commercial Code. All advances and indebtedness arising or accruing under the Loan Agreement from time to time, whether or not the total amount

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thereof may exceed the Loan Amount or the face amount of the Note, shall be secured hereby. If there shall be any inconsistency between provisions of this Mortgage and the Loan Agreement, Mortgagee shall have the option of determining which of such inconsistent provisions shall prevail.

(b) This Mortgage is granted to secure future advances and loans from Mortgagee to Mortgagor as provided in the Loan Agreement and costs and expenses of enforcing Mortgagor's obligations under this Mortgage and the other Loan Documents. All advances, disbursements or other payments required by the Loan Agreement are obligatory advances up to the credit limits established therein and shall, to the fullest extent permitted by law, have priority over any and all mechanics' liens and other liens and encumbrances arising after this Mortgage is recorded.

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

Daniel Development Company

By:


Gloria Carney Shealey, president

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STATE OF ILLINOIS)
COUNTY OF COOK) SS:

I, Ruby L. Belin, a Notary Public within and for said County, in the State aforesaid, duly commissioned and acting, do hereby certify that on this 14th day of December, 1994, personally appeared before me Gloria Carifay Shealey, the President of Daniele Development Company signed the foregoing instrument, and who, being by me duly sworn, stated and acknowledged that she is the President of said Company, and that she signed and delivered the same on behalf of said Company, with authority, as her and its free and voluntary act and deed for the uses and purposes therein mentioned and set forth.

WITNESS my hand and seal as such Notary Public the day and year in this certificate above written.



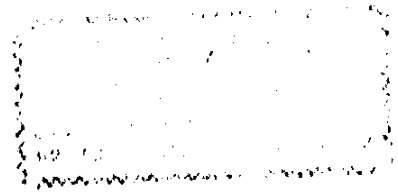
Ruby L. Belin
Notary Public

My commission expires: 08/10/98

04073054

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Property of Cook County Clerk's Office



1800-2000

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EXHIBIT A

LEGAL DESCRIPTION

Common Address:

808 4475 24501 S. Oakwood Avenue, Chicago, Illinois

P.I.N.:

Legal Description Attached

THIS INSTRUMENT PREPARED BY AND RETURN TO:
KURT DAHL
HIGHLAND COMMUNITY BANK
1701 WEST 87TH STREET
CHICAGO, IL. 60620

04073054

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CHICAGO TITLE INSURANCE COMPANY

ORDER NUMBER: 1401 007937141 D2

STREET ADDRESS:

CITY:

COUNTY: COOK

TAX NUMBER: 20 02 405 009 ✓ 20 02 405 012.

LEGAL DESCRIPTION:

LOT 35 (EXCEPT THE SOUTH 19.98 FEET THEREOF) AND THE SOUTH 9.99 FEET OF LOT 36 IN KENWOOD SUBDIVISION IN THE SOUTHEAST FRACTIONAL QUARTER OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

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EXHIBIT D

Permitted Exceptions

Taxes which are not yet due and owing.

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