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Eugene "Gene" Moore Fee: \$46.00  
Cook County Recorder of Deeds  
Date: 03/22/2004 03:15 PM Pg: 1 of 12

Document prepared by  
and after recording to  
be returned to:

Kenneth C. Baker, Esq.  
EASTMAN & SMITH LTD.  
One SeaGate, 24th Floor  
P. O. Box 10032  
Toledo, Ohio 43699-0032  
Telephone: 419-247-1656

Loan No. \_\_\_\_\_

## MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT

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THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FINANCING STATEMENT (this "Mortgage") is made effective as of the 8th day of March, 2004, between the Mortgagor, **CRC CHICAGO BK II, LLC**, a Michigan limited liability company, whose address is 24 Frank Lloyd Wright Drive, Lobby L, Fourth Floor, Ann Arbor, Michigan 48106-0544 (herein "Borrower"), and the Mortgagee, Fifth Third Bank, an Ohio banking corporation (herein "Lender") whose address is 606 Madison Avenue, Toledo, Ohio 43604.

WHEREAS, Borrower is indebted to Lender in the principal sum of Eight Million Two Hundred Thirty-Four Thousand Four Hundred Eighteen and 00/100 Dollars (\$8,234,418.00) (herein, the "Indebtedness") which Indebtedness is evidenced by a Term Note dated as of March 8, 2004 which matures on March 8, 2006 and a Loan Agreement dated as of March 8, 2004 (herein, the "Loan Documents").

TO SECURE to Lender (a) the repayment of the Indebtedness evidenced by the Loan Documents and any extensions or renewals thereof, with interest thereon, the payment of all other funds, with interest thereon, advanced in accordance herewith to protect the security of this Mortgage, and the performance of the covenants and agreements of Borrower herein contained, or contained in the Loan Documents or any document executed in connection therewith, and (b) the repayment of any and all other loans, advances or indebtedness of Borrower owed to Lender and all affiliates of Lender, of any nature whatsoever (collectively the "Obligations"), Borrower hereby GRANTS, BARGAINS, CONVEYS, and MORTGAGES to Lender and its successors and assigns forever all of Borrower's estate, right, title and interest, whether now or hereafter acquired, in and to the following described property located in the County of Cook, State of Illinois, to wit (herein, the "Real Estate"):

**See attached Exhibit "A"**

TOGETHER with all the improvements now or hereafter erected on the Real Estate owned by Borrower, and all easements, rights, appurtenances, rents, royalties, mineral, oil and gas rights (to the extent such mineral, oil and/or gas rights have not previously been assigned) and profits, water rights, and water stock, all equipment essential to the operation of the improvements located on, and all fixtures now or hereafter permanently attached to, the Real Estate, and all right, title and interest of Borrower in and to the land lying in the streets and roads in front of and adjoining the Real Estate, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the Real Estate covered by this Mortgage; and all of the foregoing, together with said Real Estate, are herein referred to as the "Property".

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BORROWER covenants that Borrower is lawfully seized of the estate hereby conveyed and has the right to mortgage, grant, and convey the Property, that the Property is unencumbered, and that Borrower will warrant and defend the title of the Property against all claims and demands.

COVENANTS. Borrower and Lender covenant and agree as follows:

1. **PAYMENT OF PRINCIPAL AND INTEREST.** Borrower shall promptly pay when due the principal and the interest on the Indebtedness evidenced by the Loan Documents, any extensions or renewals thereof, prepayment and late charges as provided in the Loan Documents, and the principal and interest on any Obligations and other sums secured by this Mortgage.

2. **HAZARD INSURANCE.** Borrower shall keep (or cause tenant to keep) the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage", and such other hazards as Lender may require or as may be required by applicable law (including flood insurance required by Item 28 hereof), and in such amounts and for such periods as Lender may require; provided, however, that Lender shall not require that the amount of such coverage exceed that amount of coverage required to pay the sums secured by this Mortgage unless required by applicable law.

The insurance carrier providing the insurance shall be chosen by Borrower, subject to approval by Lender, provided that such approval shall not be unreasonably withheld. Unless otherwise specified, all premiums on insurance policies shall be paid by Borrower (or by its tenant) making payment, when due, directly to the insurance carrier and providing receipt of said payment to Lender if requested by Lender. If, however, Borrower defaults on any premium payment, Lender may require a fund for insurance as provided for in Item 4.

All such insurance policies and renewals thereof shall be in form acceptable to Lender in the exercise of its commercially reasonable discretion and shall include a standard mortgage clause in favor of and in form acceptable to Lender and shall provide that the policies shall not be amended or cancelled without thirty (30) days prior written notice to Lender. Lender shall have the right to hold the original policies and renewals thereof, and Borrower shall promptly furnish to Lender all renewal notices and all receipts of paid premiums. In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Lender is hereby given full power to collect any insurance proceeds or to settle and compromise any insurance claims or bring suit to recover thereunder.

So long as no Event of Default and no event which, with the giving of notice or the passage of time, or both, would result in an Event of Default has occurred and is then continuing, the net proceeds of any insurance claim, after deducting all costs of collection, including attorney's fees, will be made available by Lender to Borrower to be used and applied to restoration or repair of the Property, subject to such disbursement requirements as are reasonably satisfactory to Lender, provided that such restoration or repair is conducted pursuant to plans and specifications reasonably satisfactory to Lender and, in the event of a total destruction of the improvements on the Property, is a prudent and economically justifiable use of such proceeds. Any insurance proceeds remaining after completion of the repair or restoration shall be applied to the Indebtedness and Obligations secured hereby. If an Event of Default then or thereafter exists, however, Lender may, without further notice or demand, retain such proceeds and elect to declare the sums secured hereby due and payable and may invoke any of the remedies afforded it by law, and/or by this Mortgage, including those permitted in Item 19 hereof.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any installment payments agreed to by Lender and Borrower, or change the amount of such installments. If, under Item 19 hereof, the Property is acquired by Lender, all right, title and interest of Borrower in and to any insurance policies and in and to the proceeds thereof resulting from damage to the Property prior to the sale or acquisition shall pass to Lender to the extent of the sum secured by this Mortgage, immediately prior to such sale or acquisition.

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3. **CHARGES; LIENS.** Borrower shall pay all taxes, liens, assessments and other charges, fines and impositions attributable to the Property, and leasehold payments or ground rents, if any, by Borrower making payment, when due, before delinquency, directly to the payee thereof. Borrower shall promptly furnish to Lender all notices of amounts due under this paragraph, and Borrower shall promptly furnish Lender receipts evidencing such payment. If Borrower defaults on any payment of any tax or assessment which may attain priority over this Mortgage, Lender may require a fund for such taxes and assessments as provided for in Item 4.

Borrower shall promptly discharge any lien or claim which has or may obtain priority over this Mortgage; provided that Borrower shall not be required to discharge any such lien so long as Borrower shall agree in writing to the payment of the obligation secured by such lien in a manner acceptable to Lender, or shall in good faith contest such lien by, or defend enforcement of such lien in, legal proceedings which operate to prevent the enforcement of the lien or forfeiture of the Property or any part thereof. In the event any such lien or claim is not promptly discharged, Lender may, at its option, require Borrower to deposit with Lender such amounts or such bonds as are acceptable to Lender to assure the priority of this Mortgage. Borrower further agrees to pay to Lender any costs it may advance in order to protect the priority of its lien, including, but not limited to, court costs and reasonable attorneys' fees.

4. **FUNDS FOR TAXES AND INSURANCE.** If Borrower or its tenant is in default on any premium payment on an insurance policy or if Borrower fails to pay or cause to be paid any taxes or assessments when due, before delinquency, Borrower shall be required to pay to Lender on the day any installments of principal or interest are payable under the Loan Documents, or on such other date as Lender may specify, until the sums secured hereby are paid in full, a sum equal to a percentage, to be specified by Lender, of (i) the yearly taxes and assessments which may attain priority over this Mortgage, and ground rents on the Property, if any, (ii) the yearly premium installments for hazard insurance, and (iii) yearly premium installments for mortgage insurance, if any (collectively, the "Funds"), all as reasonably estimated initially and from time to time by Lender on the basis of assessments and bills and reasonable estimates thereof. Notwithstanding the foregoing, in the event such default is subsequently cured to the satisfaction of Lender, Borrower provides Lender with assurances satisfactory to Lender that such default or any other similar default hereunder will not reoccur in the future, and no Event of Default has occurred and is then continuing, Lender will terminate the escrow requirement and return the Funds then in its possession to Borrower, without prejudice, however, to Lender's right to reimpose the escrow requirement in the event of the occurrence of any future default or failure.

The Funds shall be held by Lender and applied by it to pay said taxes, assessments, insurance premiums and ground rents. Lender may not charge for holding and applying the Funds, analyzing said account, or verifying and compiling said assessments and bills, unless Lender pays Borrower interest on the Funds and applicable law permits Lender to make such a charge. No interest shall otherwise be paid to Borrower on the Funds, unless applicable law requires such interest to be paid. Lender shall give to Borrower, without charge, an annual accounting of the Funds showing credits and debits to the Funds. The Funds are pledged as additional security for the sums secured by this Mortgage.

If the amount of the Funds held by Lender, together with future monthly installments of Funds payable prior to the due date of taxes, assessments, insurance premiums and ground rents, shall exceed the amount required to pay the next year's taxes, assessments, insurance premiums and ground rents, as they fall due, such excess shall be, at Borrower's option, either promptly repaid to Borrower or credited to Borrower on periodic installments of Funds. If the amount of the Funds held by Lender shall not be sufficient to pay taxes, assessments, insurance premiums and ground rents as they fall due, Borrower shall pay to Lender any amount necessary to make up the deficiency within 10 days from the date notice is mailed by Lender to Borrower requesting payment thereof. Nothing in this paragraph shall be deemed to obligate Lender to pay such charges when due if the Funds are insufficient or the Borrower shall fail to supply Lender with the proper invoice when payment is due.

Upon payment in full of all sums secured by this Mortgage, Lender shall within 10 days refund to Borrower any Funds held by Lender. If under Item 19 hereof the Property is sold or the Property is otherwise acquired by Lender, Lender shall apply any Funds held by Lender as a credit against the sums secured by this Mortgage.

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5. **APPLICATION OF PAYMENTS.** Unless otherwise agreed, all payments are to be applied in the following order: costs, expenses, attorneys' fees, interest, escrow, late fees or penalties and then principal. In the event this Mortgage secures more than one note or other debt instrument, at Lender's option, payments may be applied on any of the outstanding notes, or concurrently on more than one of the outstanding notes.

6. **PRESERVATION AND MAINTENANCE OF PROPERTY.** Borrower shall keep, or cause to be kept, the Property in good repair and shall not commit waste or permit impairment or deterioration of the Property

7. **PROTECTION OF LENDER'S SECURITY.** If Borrower fails to perform the covenants and agreements contained in this Mortgage, or if any action or proceeding is commenced which materially affects Lender's interest in the Property, including, but not limited to, eminent domain, foreclosure, code enforcements, deed restrictions and registrations, or arrangements or proceedings involving a bankrupt or decedent, Lender, at Lender's option and upon 10 days notice to Borrower, may make such appearances, disburse such sums, and take such action as is necessary to protect Lender's interest, including, but not limited to, disbursement of reasonable attorneys' fees and entry upon the Property to make repairs. If Lender required mortgage insurance as a condition of making the loan secured by this Mortgage, Borrower shall pay the premiums required to maintain such insurance in effect until such time as the requirement of such insurance terminates in accordance with Borrower's and Lender's written agreement or applicable law. Borrower shall pay the amount of all mortgage insurance premiums in the manner provided under Item 2 hereof.

Any amounts disbursed by Lender pursuant to this Item 7, with interest thereon, shall become additional indebtedness of Borrower secured by this Mortgage. Unless Borrower and Lender agree to other terms of payment, such amounts shall be payable upon notice from Lender to Borrower requesting payment thereof, and shall bear interest from the date of disbursement at the applicable rate as prescribed in the Loan Documents evidencing the Indebtedness or the highest rate under applicable law. Nothing contained in this Item 7 shall require Lender to incur any expense or take any action hereunder.

8. **ENVIRONMENTAL LAWS.** (a) Borrower has obtained (or has caused tenant to obtain) all permits, licenses and other authorizations which are required under any now existing or hereafter enacted or amended federal, state or local statute, ordinance, code or regulation affecting or regulating the environment ("Environmental Laws") and, to Borrower's knowledge, without any additional investigation, Borrower is in compliance in all material respects with all terms and conditions of the required permits, licenses and authorizations, and is also in compliance in all material respects with all other limitations, restrictions, conditions, standards, prohibitions, requirements, obligations, schedules and timetables contained in the Environmental Laws, as related to the Property;

(b) Borrower is not aware of, and has not received notice of, any past, present or future events, conditions, circumstances, activities, practices, incidents, actions or plans which may interfere with or prevent compliance or continued compliance in any material respect with Environmental Laws, or may give rise to any material common law or legal liability, or otherwise form the basis of any material claim, action, demand, suit, proceeding, hearing, study or investigation, based on or related to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling, or the emission, discharge, release or threatened release into the environment, of any pollutant, contaminant, chemical, or industrial, toxic or hazardous substance or waste;

(c) There is no civil, criminal or administrative action, suit, demand, claim, hearing, notice or demand letter, notice of violation, investigation, or proceeding pending or, to the best of Borrower's knowledge without any additional investigation, threatened against Borrower relating in any way to any Environmental Laws; and

(d) Lender will not be deemed to assume any liability or obligation or duty to clean-up or dispose of wastes on or relating to the Property. Borrower agrees to remain fully liable and will indemnify, defend and hold Lender harmless from any and all costs, losses and expenses (including, without limitation, attorneys' fees) relating to any Environmental Laws or Borrower's breach of any of the foregoing representations or warranties. The provisions of this Item 8 will survive the release or satisfaction of this Mortgage or the foreclosure hereof and the repayment of sums secured hereby.



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9. **INSPECTION.** Lender may make or cause to be made reasonable entries upon and inspections of the Property, provided that Lender shall give Borrower notice prior to any inspection specifying reasonable cause therefor related to Lender's interest in the Property. Additionally, Lender shall have the right to inspect the books and records of the operation of the Property and make copies thereof during normal business hours and upon notice to Borrower.

10. **CONDEMNATION.** The proceeds of any award or claim for damages, direct or consequential, in connection with any condemnation or other taking of the Property or part thereof, or for conveyance in lieu of condemnation, are hereby assigned and shall be paid to Lender. No awards or settlements shall be accepted without Lender's prior written consent.

Lender is authorized to settle any claim and collect any award. As long as no Event of Default and no event which, with the giving of notice or the passage of time, on both, would result in an Event of Default has occurred and is then continuing, the net proceeds of such award or settlement, after deducting all costs of collection including attorneys' fees, will be made available by Lender to Borrower to be used and applied to restoration or repair of the Property, subject to such disbursement requirements as are reasonably satisfactory to Lender, provided that such restoration or repair is conducted pursuant to plans and specifications reasonably satisfactory to Lender and, in the event of a condemnation or taking of all of the improvements on the Property, such restoration or repair is a prudent and economically justifiable use of such proceeds. Any proceeds remaining after completion of the repair or restoration shall be applied to the Indebtedness and Obligations secured hereby. If an Event of Default then or thereafter exists, however, Lender may without further demand or notice retain such proceeds and elect to declare the whole of the remaining indebtedness immediately due and payable and may invoke any of the remedies afforded it by law, and/or by this Mortgage, including those permitted by Item 19 hereof.

Unless Lender and Borrower otherwise agree in writing, any application of proceeds to principal shall not extend or postpone the due date of any installment payments referred to in Item 1 hereof or change the amount of such installments.

11. **BORROWER NOT RELEASED.** Extension of the time for payment or modification of amortization of the sums secured by this Mortgage granted by Lender to any successor in interest of Borrower approved by Lender shall not operate to release, in any manner, the liability of Borrower and Borrower's successors in interest. Lender shall not be required to commence proceedings against any such successor or refuse time for payment or otherwise modify the amortization of any sums secured by this Mortgage by reason of any demand made by Borrower or Borrower's successors in interest.

12. **FORBEARANCE BY LENDER NOT A WAIVER.** Any forbearance by Lender in exercising any right or remedy hereunder, or otherwise afforded by applicable law, shall not be a waiver of, or preclude the future exercise of, any such right or remedy. The procurement of insurance or the payment of taxes or other liens or charges by Lender shall not be a waiver of Lender's right to accelerate the maturity of the Indebtedness and Obligations secured by this Mortgage.

13. **REMEDIES CUMULATIVE.** All remedies provided in this Mortgage are distinct and cumulative to any other right or remedy under this Mortgage, the Term Note or any of the other Loan Documents, any documents or instruments evidencing the Obligations, or as afforded by law or equity, and may be exercised concurrently, independently or successively.

14. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; CAPTIONS.** The covenants and agreements contained herein shall bind, and the rights hereunder shall inure to, the respective successors and assigns of Borrower and Lender, subject to the provisions of Items 17 and 18 hereof. All covenants and agreements of Borrower shall be joint and several. The captions and headings of the Items of this Mortgage are for convenience only and are not to be used to interpret or define the provisions hereof.

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15. **NOTICE.** Except for any notice required under applicable law to be given in another manner, any notice to Borrower provided for in this Mortgage shall be given by mailing such notice by certified or registered mail, return receipt requested, to Borrower at the address set forth above or as carried on the records of the Lender. Any notice to Lender shall be given by certified or registered mail, return receipt requested, to Lender's address stated herein or to such other address as Lender may designate by notice to Borrower as provided herein.

16. **GOVERNING LAW; SEVERABILITY.** This transaction shall be governed by the laws of the State where the Property is located. In the event that any provision or clause of this Mortgage or the Loan Documents conflicts with applicable law, such conflict shall not affect other provisions of either this Mortgage or the Loan Documents which can be given effect without the conflicting provision, and in this regard, the provisions of this Mortgage and the Loan Documents are declared severable.

17. **TRANSFER OF THE PROPERTY OR INTERESTS THEREIN.** If all or any part of the Property or an interest therein is sold, transferred, encumbered or otherwise conveyed by Borrower, without Lender's prior written consent, or if any contract to do any of the same is entered into by Borrower without Lender's prior written consent, (including any conveyance into trust and any conveyance, sale or assignment of the beneficial interest in any trust holding title to the Property), it shall be deemed to increase the Lender's risk and Lender may, at Lender's option, either declare all the sums secured by this Mortgage to be immediately due and payable, or may consent to said conveyance in writing and may increase the interest rate on the Indebtedness and/or impose whatever conditions it may deem necessary to compensate it for the increased risk. Lender shall have waived such option to accelerate if, prior to the conveyance, Lender and the person to whom the Property is to be conveyed reach agreement in writing that the credit of such person is satisfactory to Lender and that the interest payable on the sums secured by this Mortgage shall be at such rate as Lender shall request. If Lender has waived the option to accelerate provided in Item 18, and if Borrower's successor in interest has executed a written assumption agreement accepted in writing by Lender, Lender may, in its discretion, release Borrower from all obligations under this Mortgage and the Loan Documents, and any such decision to release or not to release Borrower shall be evidenced by said written assumption agreement.

If Borrower herein is other than an individual or individuals acting on their own behalf, any change in the legal or beneficial ownership of such Borrower or entity which changes the identity of any person or persons having, directly or indirectly, more than 10% of either the legal or beneficial ownership of either such Borrower, such entity, or of the Property shall be deemed to be a transfer within the meaning of this Item. Such transfer shall not be made, created, or suffered to be made or created, without Lender's prior written consent.

18. **ACCELERATION.** Upon (i) the occurrence of an Event of Default (as defined in any of the Loan Documents), (ii) the occurrence of a default in the payment of the Obligations hereby secured or any part thereof which is not cured within thirty (30) days, (iii) (a) the failure of Borrower to maintain any insurance required by this Mortgage, or (b) the occurrence of any default (other than a default under Section 1 of this Mortgage) in the performance of any other covenant or agreement of Borrower in this Mortgage which is not cured by Borrower within thirty (30) days after written notice from Lender, (iv) the filing of any lien or charge against the Property or any part thereof which is not otherwise permitted by this Mortgage or the Loan Agreement and which is not removed to the satisfaction of Lender within a period of sixty (60) days after Lender requests Borrower to remove the same, (v) the institution of any proceeding to enforce any lien or charge upon the Property or any part thereof, which proceeding is not dismissed within sixty (60) days, (vi) the filing of any proceeding by Borrower in bankruptcy, insolvency or similar proceedings or the assignment by Borrower of its property for the benefit of its creditors, (vii) the filing of any proceeding against Borrower in bankruptcy or insolvency or the placing of Borrower's property in receivership, trusteeship or conservatorship with or without action or suit in any court, which action or proceeding is not dismissed within sixty (60) days after the date of filing, or (viii) the abandonment by Borrower of all or any part of the Property for ten (10) days (herein "Events of Default"), Lender, at Lender's option, may declare all of the sums secured by this Mortgage to be immediately due and payable without notice to Borrower. The sums secured hereby shall bear interest at the highest rate permitted to be charged on delinquent installments of principal and interest under the Loan Documents or the highest rate allowed by law, and this Mortgage shall become absolute and subject to foreclosure.

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19. **REMEDIES.** Upon the occurrence of any Event of Default, or at any time thereafter, Lender may, at its option, proceed to foreclose the lien of this Mortgage by judicial proceedings in accordance with the laws of the State of Illinois and to exercise any other remedies of Lender provided herein or in the Loan Documents, or which Lender may have at law or in equity. Any failure by Lender to exercise such option shall not constitute a waiver of its right to exercise the same at any other time. Upon or at any time after the filing of any complaint to foreclose the lien of this Mortgage, the court may appoint upon petition of Lender, and at Lender's sole option, a receiver of the Property pursuant to the Illinois Mortgage Foreclosure Law, as amended (Illinois Compiled Statutes 735 ILCS 5/15-1001, et. seq.) (the "IMF Law"). Such appointment may be made either before or after sale, without notice; without regard to the solvency or insolvency, at the time of application for such receiver, of the person or persons, if any, liable for the payment of the sums secured hereby; without regard to the value of the Property at such time and whether or not the same is then occupied as a homestead; without bond being required of the applicant; and Lender or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the IMF Law, including the power to take possession, control and care of the Property and to collect all rents, issues, deposits, profits and avails thereof during the pendency of such foreclosure suit and apply all funds received toward the sums secured by this Mortgage, and in the event of a sale and a deficiency where Borrower has not waived its statutory rights of redemption, during the full statutory period of redemption, as well as during any further times when Borrower or its successors or assigns, except for the intervention of such receiver, would be entitled to collect such rents, issues, deposits, profits and avails, and shall have all other powers that may be necessary or useful in such cases for the protection, possession, control, management and operation of the Property during the whole of any such period. To the extent permitted by law, such receiver may extend or modify any then existing leases and make new leases of the Property or any part thereof provided the same are made on commercially reasonable terms, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the sums hereby secured, it being understood and agreed that any such leases, and the options or other such provisions to be contained therein, shall be binding upon Borrower and all persons whose interests in the Property are subject to the lien hereof, and upon the purchaser or purchasers at any such foreclosure sale notwithstanding any redemption from sale, discharge of indebtedness, satisfaction of foreclosure decree or issuance of certificate of sale or deed to any purchaser.

In any case in which, under the provisions of this Mortgage, Lender has a right to institute foreclosure proceedings, whether or not the entire indebtedness secured hereby becomes immediately due and payable as aforesaid, and whether before or after the institution of proceedings to foreclose the lien hereof or before or after sale thereunder, Borrower shall, forthwith upon demand of Lender, surrender to Lender, and Lender shall be entitled to take actual possession of, the Property or any part thereof, personally or by its agent or attorneys, and Lender, in its discretion, may enter upon and take and maintain possession of all or any part of the Property, together with all documents, books, records, papers and accounts of Borrower or the then owner of the Property relating thereto, and may exclude Borrower, such owner and any agents and servants thereof wholly therefrom and may, as attorney-in-fact or agent of Borrower or such owner, or in its own name as Lender and under the powers herein granted:

(a) hold, operate, manage and control all or any part of the Property and conduct the business, if any, thereof, either personally or by its agents, with full power to use such measures, whether legal or equitable, as in its discretion may be deemed proper or necessary to enforce the payment or security of the rents, issues, deposits, profits and avails of the Property, including, without limitation, actions for recovery of rent, and actions in forcible detainer, all without notice to Borrower;

(b) cancel or terminate any lease or sublease of all or any part of the Property for any cause or on any ground that would entitle Borrower to cancel the same;

(c) elect to disaffirm any lease or sublease of all or any part of the Property made subsequent to this Mortgage or subordinated to the lien hereof;



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(d) extend or modify any then existing leases and make new leases of all or any part of the Property, provided the same are made on commercially reasonable terms, which extensions, modifications and new leases may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of any indebtedness secured hereby and the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such lease, and the options or other such provisions to be contained therein, shall be binding upon Borrower, all persons whose interests in the Property are subject to the lien hereof and the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption from sale, discharge of the indebtedness secured hereby, satisfaction of any foreclosure decree or issuance of any certificate of sale or deed to any such purchaser; and

(e) make all necessary or proper repairs, decoration, renewals, replacements, alterations, additions, betterments and improvements in connection with the Property as may seem judicious to Lender, to insure and reinsure the Property and all risks incidental to Lender's possession, operation and management thereof, and to receive all rents, issues, deposits, profits and avails therefrom.

Without limiting the generality of the foregoing, Lender shall have all right, power, authority and duties as provided in the IMF Law. Nothing herein contained shall be construed as constituting Lender as mortgagee in possession in the absence of the actual taking of possession of the Property by Lender.

20. **LITIGATION EXPENSES.** In any proceeding to foreclose the lien of this Mortgage or enforce any other remedy of Lender under this Mortgage or the Loan Documents or in any other proceeding whatsoever in connection with the Property in which Lender is named as a party there shall be allowed and included, as additional indebtedness secured hereby in the judgment or decree resulting therefrom, all expenses paid or actually incurred in connection with such proceeding by or on behalf of Lender, including, without limitation, reasonable attorneys' fees for in-house or outside counsel, expenses and court costs, appraiser's fees, outlays for documentary evidence and expert advice, stenographers' charges, publication costs, survey costs, and costs (which may be estimated as to items to be expended after entry of such judgment or decree) of procuring all abstracts of title, title searches and examinations, title insurance policies and any similar data and assurances with respect to title to the Property as Lender may deem reasonably necessary, each to be evidenced by paid invoices, receipts or other written evidence demonstrating payment, and any other expenses and expenditures which may be paid or incurred by or on behalf of Lender and permitted by the IMF Law to be included in the decree of sale, either to prosecute or defend in such proceeding or to evidence to bidders at any sale pursuant to any such decree the true condition of the title to or value of the Real Estate or the Property. All expenses of the foregoing nature, and such expenses as may be incurred in the protection of any of the Property and the maintenance of the lien of this Mortgage thereon, including, without limitation, the reasonable fees and expenses of, and court costs incurred by, any attorney employed by Lender in any litigation affecting this Mortgage or any of the Loan Documents or any of the Property, or in preparation for the commencement or defense of any proceeding or threatened suit or proceeding in connection therewith, shall be immediately due and payable by Borrower with interest thereon as provided in Item 7 hereof.

21. **WAIVER OF RIGHT OF REDEMPTION AND OTHER RIGHTS.** To the full extent permitted by law, Borrower agrees that it will not at any time or in any manner whatsoever take any advantage of any stay, exemption or extension law or any so-called "Moratorium Law" now or at any time hereafter in force, nor take any advantage of any law now or hereafter in force providing for the valuation or appraisal of the Property, or any part thereof, prior to any sale thereof to be made pursuant to any provisions herein contained, or to any decree, judgment or order of any court of competent jurisdiction; or after such sale claim or exercise any rights under any statute now or hereafter in force to redeem the property so sold, or any part thereof, or relating to the marshaling thereof, upon foreclosure sale or other enforcement hereof. To the full extent permitted by law, Borrower hereby expressly waives any and all rights it may have to require that the Property be sold as separate tracts or units in the event of foreclosure. To the full extent permitted by law, Borrower hereby expressly waives any and all rights of redemption under the IMF Law, on its own behalf, on behalf of all persons claiming or having an interest (direct or indirect) by, through or under Borrower, and on behalf of each and every person acquiring any interest in or title to the Property subsequent to the date hereof, it being the intent hereof that any and all such rights of redemption of Borrower and such other persons are and shall be deemed to be hereby waived to the full extent permitted by applicable law. To the full extent permitted by law, Borrower agrees that it will not, by



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invoking or utilizing any applicable law or laws or otherwise, hinder, delay or impede the exercise of any right, power or remedy herein or otherwise granted or delegated to Lender, but will permit the exercise of every such right, power and remedy as though no such law or laws have been or will have been made or enacted. To the full extent permitted by law, Borrower hereby agrees that no action for the enforcement of the lien or any provision hereof shall be subject to any defense which would not be good and valid in an action at law upon the Term Note. Borrower acknowledges that the Property do not constitute agricultural real estate as defined in Section 5/15-1201 of the IMF Law or residential real estate as defined in Section 5/15-1219 of the IMF Law.

22. [INTENTIONALLY DELETED].

23. **RENTAL OF PROPERTY RESTRICTED.** Except for such actions as Borrower may take in the ordinary course of business and provided such actions do not result in a material, adverse effect on the obligations of the tenant, Borrower shall not make, or suffer to be made, any lease of the Property or any part thereof, or any modification, extension or cancellation of any existing or future lease, without Lender's prior written consent. If, with Lender's written consent, there is a lease on the Property, Borrower is to perform all of Borrower's obligations under such lease or leases. Borrower is not to accept any prepayment of rent for more than one month in advance without Lender's prior written consent. Upon Lender's request from time to time, Borrower is to furnish Lender a statement, in affidavit form, in such reasonable detail as Lender may require, of all of the leases on the Property and, on demand, to furnish Lender executed counterparts of any and all such leases.

If Borrower shall enter into any lease agreement, written or oral, concerning the Property or any part thereof without having obtained Lender's prior written consent, Lender shall not be bound by, or obligated to perform under, any such lease in the event it exercises its remedies set forth in Item 19 or any other provision hereof.

24. **RELEASE.** Upon payment of all Indebtedness and Obligations secured by this Mortgage, Lender shall discharge this Mortgage with any costs paid by Borrower.

25. **MORTGAGE AS SECURITY FOR OTHER LIABILITIES.** This Mortgage shall serve as security for every other liability or liabilities of the Borrower to the Lender and any of its affiliates however created, direct or contingent, due or to become due, whether now or hereafter existing and whether the same may have been or shall be participated in, whole or in part by others, by trust agreement or otherwise, or on any manner acquired by or accruing to the holder hereof, whether by agreement with, or by assignment or endorsement to, the Lender by anyone whomsoever.

26. **RESERVED.**

27. **UNIFORM COMMERCIAL CODE SECURITY AGREEMENT.** Borrower hereby grants Lender a security interest in all items included in the Property, excluding any tenant owned furniture, fixtures and equipment, which can be subject to a security interest under the Uniform Commercial Code. With respect to building materials, personalty and other items of the Property not sufficiently related to the Real Estate so that an interest in them arises under real estate law and with respect to those items of the Property which are or are to become fixtures, this Mortgage is a security agreement and fixture filing made under 810 ILCS 5/9-101 et seq. (the "Uniform Commercial Code"). To the extent this Mortgage is a security agreement under the Uniform Commercial Code, Borrower is the debtor and Lender is the secured party. Borrower will execute and deliver to Lender all documents requested by Lender to perfect its security in such property, and Borrower will pay the expense of filing such documents and of conducting a search of records in which documents are recorded. The covenants and agreements of Borrower throughout this Mortgage will apply to all items which are subject to the security interest granted herein. Upon the occurrence of any Event of Default under this Mortgage, Lender will have the remedies of a secured party under the Uniform Commercial Code and, at Lender's sole option, may also invoke the remedies provided in this Mortgage. In exercising any of such remedies, Lender may proceed against the items of real property specified above as part of the Property separately or together and in any order whatsoever, without in any way affecting the availability of Lender's remedies under the Uniform Commercial Code or of the remedies in this Mortgage.

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28. **FLOOD INSURANCE.** If any part of any of the Property lies within a "special flood hazard area" as defined and specified by the United States Department of Housing and Urban Development pursuant to the Flood Disaster Protection Act of 1973 as now or hereafter in effect, Borrower shall (i) promptly purchase and pay the premiums for flood insurance policies as Lender deems required so that Lender shall be deemed in compliance with the rules, regulation and provisions of the Flood Disaster Protection Act of 1973 as then in effect, and (ii) deliver such policies to Lender together with evidence satisfactory to Lender that the premiums therefor have been paid. Such policies of flood insurance shall be in a form satisfactory to Lender, shall name Lender as an insured thereunder, shall provide that losses thereunder be payable to Lender pursuant to such forms of loss payable clause as Lender may approve, shall be for an amount at least equal to the Indebtedness or the maximum limit of coverage made available with respect to any of the Property under the National Flood Insurance Act of 1968, as amended, whichever is less, and shall be noncancelable as to Lender except upon thirty (30) days prior written notice given by the insurer to Lender. Within thirty (30) days prior to the expiration date of each such flood insurance policy, Borrower shall deliver to Lender a renewal policy or endorsement together with evidence satisfactory to Lender that the premium therefor has been paid. Borrower hereby indemnifies, saves and holds Lender harmless from any losses incurred by Lender arising out of Borrower's failure to obtain or maintain such insurance.

29. **JURY WAIVER.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS MORTGAGE OR ANY LOAN DOCUMENT, OR IN ANY WAY CONNECTED WITH, RELATED TO OR INCIDENTAL TO THE DEALINGS OF BORROWER AND LENDER WITH RESPECT TO THIS MORTGAGE OR ANY LOANS DOCUMENT, OR THE TRANSACTIONS RELATED HERETO, OR ANY COURSE OF CONDUCT, COURSE OF DEALINGS, STATEMENTS (WHETHER ORAL OR WRITTEN) OR ACTIONS OF EITHER PARTY, IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BORROWER HEREBY AGREES THAT ANY SUCH ACTION, CAUSE OF ACTION, CLAIM, DEMAND OR PROCEEDING SHALL BE DECIDED BY A TRIAL COURT SITTING WITHOUT A JURY AND THAT BORROWER OR LENDER MAY FILE AN EXECUTED COPY OF THIS MORTGAGE WITH ANY COURT OR OTHER TRIBUNAL AS WRITTEN EVIDENCE OF THE CONSENT OF BORROWER TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. BORROWER SHALL NOT SEEK TO CONSOLIDATE, BY COUNTERCLAIM OR OTHERWISE, ANY ACTION IN WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER ACTION IN WHICH A JURY TRIAL CANNOT BE OR HAS NOT BEEN WAIVED. THIS JURY WAIVER APPLIES REGARDLESS OF WHETHER ANY ACTION OR CAUSE OF ACTION IS FILED OR INITIATED IN ANY STATE OR FEDERAL COURT.

30. **NO MERGER.** It being the desire and intention of the parties hereto that this Mortgage and the lien thereof do not merge in fee simple title to the Property, it is hereby understood and agreed that should the Lender acquire any additional or other interests in or to the Property or the ownership thereof, then, unless a contrary intent is manifested by the Lender as evidenced by an appropriated document duly recorded, this Mortgage and the lien thereof 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.

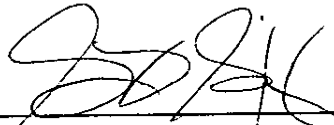
31. **CROSS DEFAULT.** If any proceedings should be instituted against the Property upon any lien or claim, whether superior or junior to the lien of this Mortgage, and such proceedings are not dismissed or terminated within 30 days thereafter, Lender may, at its option and without notice, immediately upon institution of such suit or during the pendency thereof, declare this Mortgage and the Indebtedness and the Obligations secured hereby immediately due and payable and may, at its option, proceed to foreclose this Mortgage. If there is any mortgage superior to this Mortgage, the failure to pay said mortgage when due and in accordance with its terms or failure to abide by the terms of said mortgage shall be deemed a breach of this Mortgage and Lender, at its option and without notice, may immediately or thereafter declare this Mortgage and the Indebtedness and the Obligations hereby secured due and payable forthwith.


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IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed as of the date set forth above.

WITNESSES:

CRC CHICAGO BK II, LLC, a Michigan limited liability company

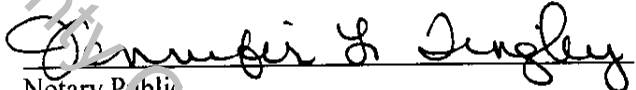
  
\_\_\_\_\_  
Printed Name: SARAH L. SAXBERY

By:   
\_\_\_\_\_  
Print Name: Joanna Zabriskie  
Its: Vice President

  
\_\_\_\_\_  
Printed Name: GREG MILLS

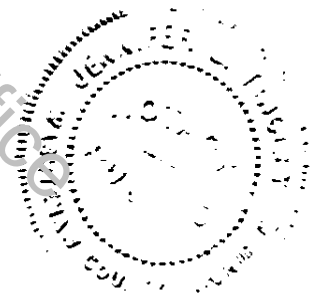
STATE OF MICHIGAN            )  
  ) SS:  
COUNTY OF WASHTENAW    )

The foregoing instrument was acknowledged before me this 26 day of February, 2004, by Joanna Zabriskie, the Vice President of CRC Chicago BK II, LLC, a Michigan limited liability company, on behalf of the limited liability company.

  
\_\_\_\_\_  
Notary Public

JENNIFER L. TINGLEY  
Notary Public, Washtenaw County, MI  
My Commission Expires Feb. 4, 2008

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## EXHIBIT A

### Real Estate

Land situated in the City of Chicago, County of Cook, State of Illinois, and more particularly described as follows:

The South 2.00 feet of Lot 18 and all to Lots 19 to 24, both inclusive (except that part of said Lots taken for widening Crawford Avenue, now known as Pulaski Road) in Block 1 in A.T. McIntosh's 69th Street Addition, being a Subdivision of the North East 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 22, Township 38 North, Range 13, East of the Third Principal Meridian, according to the plat thereof recorded May 3, 1917 as Document 6103259, in Cook County, Illinois.

Property of Cook County Clerk's Office

6950 S. Pulaski  
Chicago, IL 60629

Parcel #19-22-419-034  
#19-22-419-035  
#19-22-419-036  
#19-22-419-037  
#19-22-419-038  
#19-22-419-039  
#19-22-419-051