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MAYER, BROWN, ROWE & MAW LLP
190 South LaSalle Street
Chicago, Illinois 60603
Attn: Rex A. Palmer, Esq.

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Property of Cook County Clerk's Office

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

Dated as of October 18, 2004

Among

CHICAGO TITLE LAND TRUST COMPANY, not personally but solely as trustee
under Trust Agreement dated April 23, 1998 and known as Trust No. 1105116,
as Mortgagor

and

THE NORTHERN TRUST COMPANY, as Agent, as Mortgagee

Box 400-CTCC

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UNOFFICIAL COPY**MORTGAGE, ASSIGNMENT OF LEASES
AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING**

THIS MORTGAGE, ASSIGNMENT OF LEASES AND RENTS, SECURITY AGREEMENT AND FIXTURE FILING (herein sometimes called "Mortgage") is made as of October 18, 2004 by and among: CHICAGO TITLE LAND TRUST COMPANY, not personally but solely as trustee (herein in such capacity, together with its successors in trust and assigns, the "Mortgagor"), under Trust Agreement dated April 23, 1998 and known as Trust No. 1105116 (the "Trust") having its offices at 171 North Clark Street, Chicago, Illinois 60601 and THE NORTHERN TRUST COMPANY, as collateral agent (together with its successors and assigns in such capacity, the "Agent") for the Banks (defined hereinafter), an Illinois state banking corporation (herein, together with its successors and assigns as Agent, called the "Mortgagee") located at 50 South LaSalle Street, Chicago, Illinois 60675.

R E C I T A L S

A. Credit Agreement. A. Finkl & Sons, Co. (the "Company") has entered into a Credit Agreement (as amended, modified, supplemented, restated, or replaced from time to time, the "Credit Agreement"), dated as of October 18, 2004, with the Agent and certain financial institutions, as lenders (together with such other financial institutions as may from time to time be parties to the Credit Agreement, collectively called the "Banks" and individually, a "Bank"). The Credit Agreement provides for loans (the "Loans") to be made by the Banks to the Company in the aggregate amount (such amount being hereinafter called the "Loan Amount") of up to Twenty-Four Million and No/100 Dollars (\$24,000,000.00). The Loans are due and payable on October 18, 2005, and may be evidenced by notes (collectively, the "Notes" and individually a "Note"), made by the Company in favor of the Banks. The rate of interest payable on the Loans varies from time to time as provided in the Credit Agreement.

B. The Beneficiary. 2100 North Southport Properties, Inc. (the "Beneficiary") is the sole beneficiary of the Trust. The Beneficiary is a subsidiary of the Company and will benefit from the Loans.

C. The Guaranty. The Beneficiary and other domestic subsidiaries of the Company have executed and delivered to the Agent a certain Subsidiary Guaranty (as amended, modified and restated from time to time, the "Guaranty"), whereby such parties guarantee the obligations of the Company pursuant to the Credit Agreement and the Notes.

D. The Obligations. As used in this Mortgage, the term "Obligations" means and includes all of the following: all advances, debts, liabilities, obligations, covenants and duties arising under the Guaranty, this Mortgage or the other Loan Documents owing by the Beneficiary to any Bank or whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter arising including, without limitation, any and all advances, costs or expenses paid or incurred by the Mortgagee to protect any or all of the Collateral (hereinafter defined) and other collateral under the Loan Documents, to perform any obligation of the Mortgagor hereunder and any obligation of the Mortgagor under the Guaranty or the other Loan Documents or collect any amount owing to the Mortgagee or the Banks which is secured hereby or under the Loan Documents; interest on all of the foregoing; and all costs of

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enforcement and collection of this Mortgage, the Guaranty or the other Loan Documents and the Obligations.

E. The Collateral. For purposes of this Mortgage, the term “Collateral” means and includes all of the following:

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

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

(iii) Rents. All rents, issues, profits, royalties, avails, income and other benefits derived by the Mortgagor from the Land (all of the foregoing is herein collectively called the “Rents”);

(iv) Leases. All rights of the Mortgagor under all leases, licenses, occupancy agreements, concessions or other arrangements, whether written or oral, whether now existing or entered into at any time hereafter, whereby any Person agrees to pay money to the Mortgagor or any consideration for the use, possession or occupancy of, or any estate in, the Land 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”);

(v) Plans. All rights of the Mortgagor, if any, to plans and specifications, designs, drawings and other matters prepared in connection with the Land (all of the foregoing is herein called the “Plans”);

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

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

(viii) Other Property. All other property or rights of the Mortgagor of any kind or character directly related to the Land, and all proceeds (including insurance and condemnation proceeds, subject to the remaining terms of this Mortgage) and products of any of the foregoing.

GRANT

NOW THEREFORE, for and in consideration of the Banks making any loan, advance or other financial accommodation to or for the benefit of the Company or the Mortgagor, including sums advanced under the Credit Agreement and in consideration of the various agreements contained herein and in the Credit Agreement, 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 Obligations,

THE MORTGAGOR HEREBY MORTGAGES, CONVEYS, TRANSFERS AND ASSIGNS THE COLLATERAL TO THE MORTGAGEE, AND GRANTS TO THE MORTGAGEE AND ITS SUCCESSORS AND ASSIGNS FOREVER A CONTINUING SECURITY INTEREST IN AND TO, ALL OF THE COLLATERAL, PROVIDED, HOWEVER, THAT NOTWITHSTANDING ANYTHING HEREIN ABOVE TO THE CONTRARY THE MAXIMUM PRINCIPAL AMOUNT OF THE OBLIGATIONS SECURED HEREBY AT ANY ONE TIME SHALL NOT EXCEED AN AMOUNT EQUAL TO TWO TIMES THE LOAN AMOUNT, PLUS ALL COSTS OF ENFORCEMENT AND COLLECTION OF THIS MORTGAGE, THE GUARANTY AND THE OTHER LOAN DOCUMENTS, PLUS THE TOTAL AMOUNT OF ANY ADVANCES MADE PURSUANT TO THE LOAN DOCUMENTS TO PROTECT THE COLLATERAL AND THE SECURITY INTEREST AND LIEN CREATED HEREBY; TOGETHER WITH INTEREST ON ALL OF THE FOREGOING AS PROVIDED IN THE CREDIT AGREEMENT AND THE GUARANTY.

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

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The Mortgagor hereby covenants with the Mortgagee and with the purchaser at any foreclosure sale: that at the execution and delivery hereof the Mortgagor owns a valid and enforceable fee simple estate in the Land, that the Collateral is free from all encumbrances whatsoever (and any claim of any other Person thereto) other than the security interest granted to the Mortgagee herein and pursuant to the Credit Agreement and the encumbrances expressly permitted by the Credit Agreement (the "Permitted Exceptions"); that it has good and lawful right to sell, mortgage and convey the Collateral; and that it and its successors and assigns will forever defend the Collateral against all claims and demands whatsoever with the exception of the Permitted Exceptions.

I. COVENANTS AND AGREEMENTS OF THE MORTGAGOR

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

1.1 Access by Mortgagee. The Mortgagor will at all times deliver to the Mortgagee either all of its executed originals (in the case of chattel paper or instruments) or, upon reasonable request therefore, certified copies (in all other cases) of all Leases, agreements creating or evidencing Plans, Contracts for Construction, Contracts for Sale, all amendments and supplements thereto, and any other document which is, or which evidences, governs, or creates, Collateral upon written request therefor and on reasonable advance notice.

1.2 Insurance. The Mortgagor will at all times maintain or cause to be maintained on the Improvements and on all other Collateral, all insurance required at any time or from time to time by the Credit Agreement. At the request of the Mortgagee, Mortgagor shall deliver to and keep deposited with the Mortgagee original certificates and 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 10 days' prior written notice to the Mortgagee of cancellation or material modification of such policies attached thereto in favor of the Mortgagee, its successors and assigns. All of the above-mentioned original insurance policies or copies of such policies and certificates of such insurance satisfactory to the Mortgagee, together with receipts for the payment of premiums thereon, shall be delivered to and held by the Mortgagee, which delivery shall, subject to the remaining terms hereof, constitute an assignment to the Mortgagee of all return premiums to be held as additional security hereunder. All renewal and replacement policies shall be delivered to the Mortgagee at least ten (10) days before the expiration of the expiring policies. While no Default has occurred and is continuing any loss paid to the Mortgagee or Mortgagor under any such policies may be applied by the Mortgagor to rebuild or repair the damaged or destroyed Improvements or other Collateral. Any proceeds of such insurance policies not used to rebuild or repair the damaged or destroyed Improvements or other Collateral shall be applied to the prepayment of the Obligations. The Mortgagor further agrees that, upon the occurrence and during the continuance of a Default, any loss paid to the Mortgagee or Mortgagor under any of such policies shall be applied, at the option of the Mortgagee, toward pre-payment of the Obligations, or to the rebuilding or repairing of the damaged or destroyed Improvements or other Collateral, as the Mortgagee in its sole and unreviewable discretion may elect (provided that any

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election to apply such amounts to a pre-payment of the Obligations shall relieve the Mortgagor of the duty to rebuild or repair).

The Mortgagor hereby empowers the Mortgagee, in its discretion, upon the occurrence and during the continuance of a Default, to settle, compromise and adjust any and all claims or rights under any insurance policy maintained by the Mortgagor relating to the Collateral. At all times other than during the continuance of a Default, the Mortgagor shall have the exclusive right to settle, compromise, and adjust any and all claims, rights, or proceeds under any insurance policy maintained by the Mortgagor relating to the Collateral. In the event of foreclosure of this Mortgage or other transfer of title to the Land in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee. Nothing contained in this Mortgage shall create any responsibility or obligation on the Mortgagee to collect any amounts owing on any insurance policy or resulting from any condemnation, to rebuild or replace any damaged or destroyed Improvements or other Collateral or to perform any other act hereunder. The Mortgagee shall not by the fact of approving, disapproving, accepting, preventing, obtaining or failing to obtain any insurance, incur any liability for or with respect to the amount of insurance carried, the form or legal sufficiency of insurance contracts, solvency of insurance companies, or payment or defense of lawsuits, and the Mortgagor hereby expressly assumes full responsibility therefor and all liability, if any, with respect thereto.

1.3 Eminent Domain. In case the Collateral, or any part or interest in any thereof, is taken by condemnation, then upon the occurrence and during the continuance of a Default, the Mortgagee is empowered to collect and receive all compensation and 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 the Mortgagor hereby assigns to the Mortgagee), and all Condemnation Awards so received shall be forthwith applied by the Mortgagee, as it may elect in its sole and unreviewable discretion, to the prepayment of the Obligations, or to the repair and restoration of any property not so taken or damaged, provided, however, that an election by the Mortgagee under this section to apply such amounts to the Obligations shall relieve the Mortgagor of the duty to repair and restore; provided, however, as long as no Default has occurred and is continuing that any Condemnation Awards payable by reason of the taking of less than all of the Collateral shall be made available to the extent required, as determined by the Mortgagee in its reasonable discretion, for the repair or restoration of any Collateral not so taken. The Mortgagor hereby empowers the Mortgagee, in the Mortgagee's absolute discretion, upon the occurrence and during the continuance of a Default 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. At all times other than during the continuance of a Default, the Mortgagor shall have the exclusive right to settle, compromise, and adjust any and all claims, rights, or proceeds under any insurance policy maintained by the Mortgagor relating to the Collateral.

1.4 Continuing Priority. The Mortgagor will: pay such fees, taxes and charges, execute and file (at the Mortgagor's expense) such financing statements, obtain such acknowledgements or consents, notify such obligors or providers of services and materials and do all such other acts and things as the Mortgagee may from time to time reasonably request to establish and maintain a valid and perfected first and prior lien on and security interest in the

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Collateral; maintain its office and principal place of business at all times at the address shown above except as otherwise provided in the Credit Agreement; keep all of its books and records relating to the Collateral on the Land or at such address; keep all tangible Collateral on the Land except as the Mortgagee may otherwise consent in writing; and not collect any rents or the proceeds of any of the Leases more than 30 days before the same shall be due and payable except as the Mortgagee may otherwise consent in writing.

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

1.6 Assignment of Leases and Rents and Collections.

(a) All of the Mortgagor's interest in and rights under the Leases now existing or hereafter entered into, and all of the Rents, whether now due, past due, or to become due, and including all prepaid rents and security deposits, and all other amounts due with respect to any of the other Collateral, are hereby absolutely, presently and unconditionally assigned and conveyed to the Mortgagee to be applied by the Mortgagee in payment of all sums due with respect to, the Obligations and all other sums payable under this Mortgage. At all times other than during the continuance of any Default, the Mortgagor shall have a license to collect and receive all Rents and other amounts, which license shall be terminated at the sole option of the Mortgagee, without regard to the adequacy of its security hereunder and without notice to or demand upon the Mortgagor, upon the occurrence and during the continuance of any Default. It is understood and agreed that neither the foregoing assignment to the Mortgagee nor the exercise by the Mortgagee of any of its rights or remedies under Article IV hereof shall be deemed to make the Mortgagee a "mortgagee-in-possession" or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or any portion thereof, unless and until the Mortgagee, in person or by agent, assumes actual possession thereof. Nor shall appointment of a receiver for the Collateral by any court at the request of the Mortgagee or by agreement with the Mortgagor, or the entering into possession of any part of the Collateral by such receiver, be deemed to make the Mortgagee a mortgagee-in-possession or otherwise responsible or liable in any manner with respect to the Collateral or the use, occupancy, enjoyment or operation of all or any portion thereof. Upon the occurrence and during the continuance of any Default, this shall constitute a direction to and full authority to each lessee under any Leases, each guarantor of any of the Leases and any other Person obligated under any of the Collateral to pay all Rents and other amounts owing to the Mortgagor with respect to the Collateral to the Mortgagee without proof of the Default relied upon. The Mortgagor hereby irrevocably authorizes each such Person to rely upon and comply with any notice or demand by the Mortgagee for the payment to the Mortgagee of any Rents and other amounts due or to become due to the Mortgagor with respect to the Collateral.

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1.7 The Mortgagee's Performance. If the Mortgagor fails to pay any of its obligations herein contained (including payment of expenses of foreclosure and court costs) after five (5) Business Days notice or if the Mortgagor fails to pay or perform any of its obligations herein contained and a Default has occurred and is continuing, the Mortgagee may (but need not), as agent or attorney-in-fact of the Mortgagor, make any payment or perform (or cause to be performed) any obligation of the Mortgagor hereunder, in any form and manner deemed expedient by the Mortgagee, and any amount so paid or expended (plus reasonable compensation to the Mortgagee for its out-of-pocket and other expenses for each matter for which it acts under this Mortgage), with interest thereon at the Post-Default Rate, shall be added to the principal debt hereby secured and shall be repaid to the Mortgagee upon demand. In making any payment or securing any performance relating to any obligation of the Mortgagor hereunder, the Mortgagee shall be the sole judge of the legality, validity and amount of any lien or encumbrance and of all other matters necessary to be determined in satisfaction thereof. No such action of the Mortgagee shall ever be considered as a waiver of any right accruing to it on account of the occurrence of any matter which constitutes a Default.

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

II. DEFAULT

The occurrence and continuance of an Event of Default under the terms and provisions of the Credit Agreement shall constitute a default ("Default") hereunder.

III. REMEDIES

3.1 Acceleration. Upon the occurrence of any Default, all of Obligations together with interest thereon at the Post-Default Rate may become immediately due and payable as provided in the Credit Agreement.

3.2 Remedies Cumulative. No remedy or right of the Mortgagee hereunder or under any of the Loan Documents or otherwise, or available under applicable law or in equity, shall be exclusive of any other right or remedy, but each such remedy or right shall be in addition to every other remedy or right now or hereafter existing under any such document or under applicable law or in equity. No delay in the exercise of, or omission to exercise, any remedy or right accruing on any Default shall impair any such remedy or right or be construed to be a waiver of any such Default or an acquiescence therein, nor shall it affect any subsequent Default of the same or a different nature. Every such remedy or right may be exercised concurrently or independently, and when and as often as may be deemed expedient by the Mortgagee. All obligations of the Mortgagor, and all rights, powers and remedies of the Mortgagee, expressed herein shall be in addition to, and not in limitation of, those provided by law or in equity or in

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any other Loan Documents or any other written agreement or instrument relating to any of the Obligations or any security therefor.

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

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

The court may, from time to time, authorize said receiver to apply the net amounts remaining in its hands, after deducting reasonable compensation for the receiver and its counsel as allowed by the court, in payment (in whole or in part) of any or all of the Obligations, including without limitation the following, in such order of application as the Mortgagee may elect: (i) amounts due under the Guaranty, (ii) amounts due upon any decree entered in any suit foreclosing this Mortgage, (iii) costs and expenses of foreclosure and litigation upon the Land, (iv) insurance premiums, repairs, taxes, special assessments, water charges and interest, penalties and costs, in connection with the Land, (v) any other lien or charge upon the Land that may be or become superior to the lien of this Mortgage, or of any decree foreclosing the same and (vi) all moneys advanced by the Mortgagee in accordance with the Loan Documents to cure or attempt

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to cure any Default by the Mortgagor in the performance of any obligation or condition contained in any Loan Documents or this Mortgage or otherwise, to protect the security hereof provided herein, or in any Loan Documents, with interest on such advances at the Post-Default Rate. The overplus of the proceeds of sale, if any, shall then be paid to the Mortgagor. This Mortgage may be foreclosed once against all, or successively against any portion or portions, of the Land, as the Mortgagee may elect, until all of the Land have been foreclosed against and sold. As part of the foreclosure, the Mortgagee in its discretion may, with or without entry, personally or by attorney, sell to the highest bidder all or any part of the Land, 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. In the case of any sale of the Land 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 any documents or instruments evidencing the Obligations in order that there may be credited as paid on the purchase price the amount of the Obligations. In case of any foreclosure of this Mortgage (or the commencement of or preparation therefor) in any court, all expenses of every kind reasonably paid or incurred by the Mortgagee for the enforcement, protection or collection of this security, including court costs, reasonable attorneys' fees, stenographers' fees, costs of advertising, and costs of title insurance and any other documentary evidence of title, shall be paid by the Mortgagor.

3.5 Remedies for Leases and Rents. If any Default shall occur and be continuing, then, whether before or after institution of legal proceedings to foreclose the lien of this Mortgage or before or after the sale thereunder, the Mortgagee shall be entitled, in its discretion, to do all or any of the following: (i) enter and take actual possession of the Land, the Rents, the Leases and other Collateral relating thereto or any part thereof personally, or by its agents or attorneys, and exclude the Mortgagor therefrom; (ii) with process of law, enter upon and take and maintain possession of all of the documents, books, records, papers and accounts of the Mortgagor relating thereto; (iii) as attorney-in-fact or agent of the Mortgagor, or in its own name as mortgagee and under the powers herein granted, hold, operate, manage and control the Land, the Rents, the Leases and other Collateral relating thereto and conduct the business, if any, thereof either personally or by its agents, contractors or nominees, with full power to use such measures, legal or equitable, as in its reasonable discretion or in the reasonable discretion of its successors or Eligible Assigns may be deemed proper or necessary to enforce the payment of the Rents, the Leases and other Collateral relating thereto (including actions for the recovery of rent, actions in forceable detainer and actions in distress of rent); (iv) cancel or terminate any Lease or sublease on any ground which would entitle the Mortgagor to cancel the same; (v) make all necessary or proper repairs, decorations, renewals, replacements, alterations, additions, betterments and improvements to the Land that, in its reasonable discretion, may seem

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appropriate; (vi) insure and reinsure the Collateral for all risks incidental to the Mortgagee's possession, operation and management thereof; and (viii) receive all such Rents and proceeds, and perform such other acts in connection with the management and operation of the Collateral, as the Mortgagee in its reasonable discretion may deem proper, the Mortgagor hereby granting the Mortgagee full power and authority to exercise each and every one of the rights, privileges and powers contained herein at any and all times after and during the continuance of any Default on notice to the Mortgagor or any other Person. The Mortgagee, in the exercise of the rights and powers conferred upon it hereby, shall have full power to use and apply the Rents to the payment of or on account of the following, in such order as it may determine: (a) to the payment of the operating expenses of the Land, including the reasonable cost of management and leasing thereof (which shall include reasonable compensation to the Mortgagee and its agents or contractors, if management be delegated to agents or contractors, and it shall also include reasonable lease commissions and other reasonable 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 as and when due and payable, the reasonable 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 reasonable judgment of the Mortgagee, make it readily rentable; and (c) to the payment of any Obligations. The entering upon and taking possession of the Land, 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 Land or any part thereof by the Mortgagee or a receiver and the collection, receipt and application of the Rents, the Mortgagee shall be entitled to exercise every right provided for in this Mortgage or by law or in equity upon or after the occurrence and during the continuance of a Default. Any of the actions referred to in this Section may be taken by the Mortgagee without regard to the adequacy of the security for the indebtedness hereby secured.

3.6 Personal Property.

(a) Whenever a Default exists, the Mortgagee may exercise from time to time any rights and remedies available to it under the Uniform Commercial Code as in effect in Illinois, under any other applicable law and in the subsections set forth below in this Section.

(b) Notice of the intended disposition of any Collateral may be given by first-class mail, hand-delivery (through a delivery service or otherwise), facsimile or E-mail, and shall be deemed to have been "sent" upon deposit in the U.S. mails with adequate postage properly affixed, upon delivery to an express delivery service, upon the electronic submission through telephonic services or, if by facsimile transmission, when sent against mechanical confirmation of successful transmission, as applicable. The Mortgagor hereby agrees and acknowledges that: (i) with respect to Collateral that is (A) perishable or threatens to decline speedily in value or (B) is of a type customarily sold on a recognized market, no notice of disposition need be given; and (ii) with respect to Collateral not described in clause (i) above, notification sent after Default and at least ten days before any proposed disposition provides notice within a reasonable time before disposition.

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(c) The Mortgagor further agrees and acknowledges that a disposition (i) made in the usual manner on any recognized market, (ii) at the price current in any recognized market at the time of disposition or (iii) in conformity with reasonable commercial practices among dealers in the type of property subject to the disposition shall, in each case, be deemed commercially reasonable.

(d) Any cash proceeds of any disposition by the Mortgagee of any of the Collateral shall be applied by the Mortgagee to payment of expenses in connection with the Collateral, including attorneys' fees and legal expenses, and thereafter to the ratable payment of the Obligations, and thereafter any surplus will be paid to the Mortgagor or as a court of competent jurisdiction shall direct. The Mortgagee need not apply or pay over for application noncash proceeds of collection and enforcement unless (i) the failure to do so would be commercially unreasonable and (ii) the Mortgagor has provided the Mortgagee with a written demand to apply or pay over such noncash proceeds on such basis.

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

IV. GENERAL

4.1 Permitted Acts. The Mortgagor agrees that, without affecting or diminishing in any way the liability of the Mortgagor or any other Person (except any Person expressly released in writing by the Mortgagee) for the payment or performance of any of the Obligations or for the performance of any obligation contained herein or affecting the lien hereof upon the Collateral or any part thereof, the Mortgagee may at any time and from time to time, without notice to or the consent of any Person, release any Person liable for the payment or performance of the

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Obligations or any guaranty given in connection therewith; extend the time for, or agree to alter the terms of payment of, any indebtedness under the Credit Agreement or any of the Obligations or any guaranty given in connection therewith; modify or waive any obligation; subordinate, modify or otherwise deal with the lien hereof; accept additional security of any kind for repayment of the Obligations or any guaranty given in connection therewith; release any Collateral or other property securing any of the Obligations or any guaranty given in connection therewith; make releases of any portion of the Land; consent to the making of any map or plat of the Land; consent to the creation of a condominium regime on all or any part of the Land or the submission of all or any part of the Land to the provisions of any condominium act or any similar provisions of law of the state where the Land are located, or to the creation of any easements on the Land or of any covenants restricting the use or occupancy thereof; or exercise or refrain from exercising, or waive, any right the Mortgagee may have.

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

4.3 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 UCC as in effect in the state in which the Land are located, and this Mortgage constitutes a financing statement filed as a fixture filing in the Official Records of the County Recorder of the County in which the Land are located with respect to any and all fixtures included within the term "Collateral" as used herein and with respect to any personal property that may now be or hereafter become such fixtures. For purposes of the foregoing, the Mortgagor is the debtor (with its address as set forth above), and the Mortgagee is the secured party (with its address as set forth above). If any item of Collateral hereunder also constitutes collateral granted to the Mortgagee under any other mortgage, agreement, document, or instrument, in the event of any conflict between the provisions of this Mortgage and the provisions of such other mortgage, agreement, document, or instrument relating to the Collateral, the provision or provisions selected by the Mortgagee shall control with respect to the Collateral.

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

4.5 Notices. Each notice, demand or other communication in connection with this Mortgage shall be in writing and shall be given as provided in the Credit Agreement for notices required by the Credit Agreement.

4.6 Successors; The Mortgagor; Gender. All provisions hereof shall bind the Mortgagor and the Mortgagee and their respective permitted successors, vendees and assigns and shall inure to the benefit of the Mortgagee, its permitted successors and assigns, and the

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Mortgagor and its permitted successors and assigns. The Mortgagor shall not have any right to assign any of its rights hereunder. Except as limited by the preceding sentence, the word "Mortgagor" shall include all Persons claiming under or through the Mortgagor and all Persons liable for the payment or performance by the Mortgagor of any of the Obligations whether or not such Persons shall have executed the Credit Agreement 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.

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

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

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

4.10 Governing Law, Submission to Jurisdiction. This Mortgage shall be governed by the laws of the state where the Land are located. Whenever possible, each provision of this Mortgage shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Mortgage shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Mortgage.

4.11 Waiver. The Mortgagor acknowledges that the transaction of which this Mortgage is a part is a transaction which does not include either agricultural real estate as defined in the Illinois Mortgage Foreclosure Law, 735 ILCS 5/15-1101 *et seq.* (herein the "Act"), or residential real estate (as defined in the Act) and the Mortgagor, on behalf of itself and all Persons now or hereafter interested in the Land or the Collateral, to the fullest extent

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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 the Mortgagor agrees that no defense, claim or right based on any thereof will be asserted, or may be enforced, in any action enforcing or relating to this Mortgage or any of this Collateral. Without limiting the generality of the preceding sentence, the Mortgagor, on its own behalf and on behalf of each and every Person acquiring any interest in or title to the Land 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. The 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.

4.12 JURY TRIAL. THE MORTGAGOR AND MORTGAGEE HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS MORTGAGE, THE CREDIT AGREEMENT, THE NOTES OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

4.13 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 Land, it is hereby understood and agreed that should the Mortgagee acquire an additional or other interests in or to the Land or the ownership thereof, then, unless a contrary intent is manifested by the Mortgagee as evidenced by an express statement to that effect in an appropriate document duly recorded, this Mortgage and the 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.

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

4.15 Future Advances. This Mortgage is given to secure not only existing indebtedness, but also future advances made pursuant to or as provided in the Credit Agreement and the other Loan Documents, whether such advances are obligatory or to be made at the option of the Banks, or otherwise, to the same extent as if such future advances were made on the date of execution of this Mortgage, although there may be no advance made at the time of execution hereof, and although there may be no indebtedness outstanding at the time any advance is made. To the fullest extent permitted by law, the lien of this Mortgage shall be valid as to all such indebtedness, including all revolving credit and future advances, from the time this Mortgage is recorded. Notwithstanding anything in this Mortgage to the contrary, although the amount of

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indebtedness secured by this Mortgage may increase or decrease from time to time, the maximum principal amount of indebtedness secured by this Mortgage at any one time shall not exceed an amount equal to two times the Loan Amount, plus all costs of enforcement and collection of this Mortgage, the Guaranty and the other Loan Documents, plus the total amount of any advances made pursuant to the Loan Documents to protect the collateral and the security interest and lien created hereby; together with interest on all of the foregoing as provided in the Loan Documents.

4.16 Credit Agreement. This Mortgage is made by the Mortgagor pursuant to the terms of the Credit Agreement. The terms of the Credit Agreement are incorporated herein by reference. In the event of an irreconcilable conflict between the Credit Agreement and this Mortgage, the terms of the Credit Agreement will govern.

4.17 Compliance with Illinois Mortgage Foreclosure Law. (a) If any provision of this Mortgage is inconsistent with any applicable provision of the Act, the provisions of the Act shall take precedence over the provisions of this Mortgage, but shall not invalidate or render unenforceable any other provision of this Mortgage that can fairly be construed in a manner consistent with the Act.

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

(c) Without limiting the generality of the foregoing, all expenses incurred by the Administrative Agent, to the extent reimbursable under 735 ILCS 5/15-1510, 735 ILCS 5/15-1512, or any other provisions of the Act, whether incurred before or after any decree or judgment of foreclosure, and whether or not enumerated in any other provision of this Mortgage, shall be added to the indebtedness secured by this Mortgage and by the judgment of foreclosure.

4.18 Trustee Exculpation. This Mortgage is executed by CHICAGO TITLE LAND TRUST COMPANY, not personally, but as trustee as aforesaid, in the exercise of the power and authority conferred upon and vested in it as such trustee and it is expressly understood and agreed that nothing herein contained shall be construed as creating any liability on the said trustee personally to pay any indebtedness under the Loan Documents or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained by and between the parties hereto. Anything herein to the contrary notwithstanding, each and all of the warranties, indemnities, representations, covenants, undertakings and agreements herein made on the part of the trustee, while in form purporting to be warranties, indemnities, representations, covenants, undertakings and agreements of said trustee, are nevertheless each and every one of them made and intended, not as personal

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warranties, indemnities, representations, covenants, undertakings and agreements by the trustee or for the purpose or with the intention of binding said trustee personally, but are made and intended for the purpose of binding only that portion of the trust property specifically described herein, and this instrument is executed and delivered by said trustee not in its own right, but solely in the exercise of the powers conferred upon it as such trustee. No personal liability or personal responsibility is assumed by, nor shall at any time be asserted or enforceable against, the trustee on account of this instrument or on account of any warranty, indemnity, representation, covenant, undertaking or agreement of said trustee in this instrument contained, either expressly or implied, all such personal liability, if any, being expressly waived and released by any holder and by every person now or hereafter claiming any right or security hereunder, and that so far as trustee is personally concerned, the legal holder or holders of the Obligations and the owner or owners of any indebtedness accruing hereunder or thereunder shall look to the Collateral and to any other security given for the indebtedness evidenced by the Guaranty and the Loan Documents.

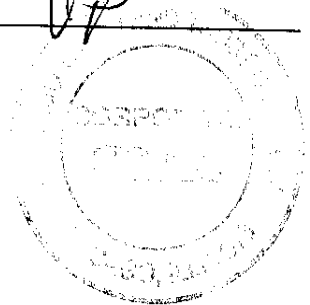
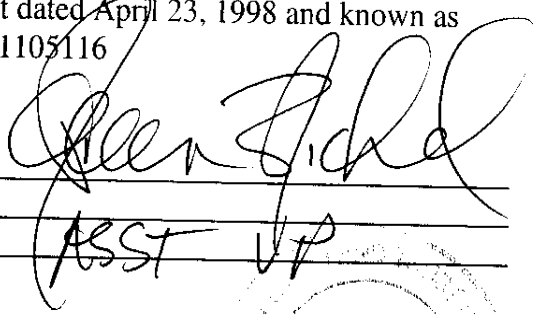
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IN WITNESS WHEREOF, the undersigned have executed and delivered this Mortgage on the day and year first above written.

CHICAGO TITLE LAND TRUST COMPANY,
not personally bus solely as trustee under Trust
Agreement dated April 23, 1998 and known as
Trust No. 1105116

By: _____
Name: _____
Title: ASST VP



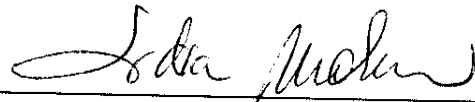
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STATE OF IL)
) SS.
COUNTY OF COOK)

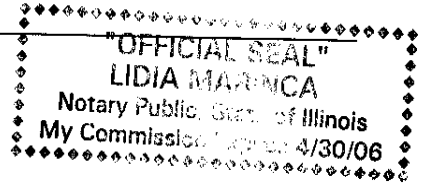
I, the undersigned, a Notary Public, do hereby certify that KAREN MICHEL, personally known to me to be the ASST VP of CHICAGO TITLE LAND TRUST COMPANY, an IL CORP, and personally known to me to be the same person whose name is subscribed to the foregoing document, appeared before me this day in person and acknowledged that as such ASST VP she signed and delivered the said document as ASST VP of said CORP, pursuant to authority given by the Board of Directors of said CORP as his free and voluntary act, and as the free and voluntary act and deed of said CORP, for the uses and purposes therein set forth.

Given under my hand and notarial seal, this 18th day of October, 2004.



Notary Public

Type or Print Name: _____



My commission expires:

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EXHIBIT-A

LEGAL DESCRIPTION

(Chicago Title Land Trust Number 1105116)

LOTS 3 TO 10 AND LOT 40 IN BLOCK 3 IN W. F. DOMINICK'S SUBDIVISION OF LOTS 1, 2 AND 3 OF BLOCK 14 OF SHEFFIELD'S ADDITION TO CHICAGO, BEING A SUBDIVISION IN SECTIONS 29, 31, 32 AND 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.

14-32-123-032
14-32-123-033
14-32-123-034
14-32-123-035
14-32-123-029

Cook County Clerk's Office