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C. As a condition to Mortgagee's extension of the financial accommodations under the Loan Agreement, Mortgagee has required that Mortgagor enter into this Mortgage and grant to Mortgagee the liens and security interest referred to herein to secure the payment and performance of the "Liabilities" under, and as defined in, the Loan Agreement and the

B. Joe Salamone and Vito Salamone, who are the sole beneficiaries of the Mortgagor have executed and delivered to Mortgagee that certain Guaranty dated as of March 7, 2003 (the "Guaranty"), pursuant to which Joe Salamone and Vito Salamone have guaranteed the obligations of Borrower under the Loan Agreement.

A. Mortgagee and Fair Share Fine Foods Incorporated, an Illinois corporation ("Borrower") have entered into that certain Loan and Security Agreement of even date herewith (the "Loan Agreement") providing for the extension by Mortgagee of credit and other financial accommodations to Mortgagor.

RECITALS:

WITNESSETH:

THIS MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT (hereinafter referred to as the "Mortgage"), made as of March 7, 2003, by and between Parkway Bank and Trust Company, an Illinois banking corporation, not personally, but solely as Trustee under a Trust Agreement dated April 7, 2000, and known as Trust Number 12525, having an address at 4800 North Harlem Avenue, Harwood Heights, Illinois 60656 (hereinafter referred to as the "Mortgagor"), and Certified Grocers Midwest, Inc., an Illinois corporation, with an office located at 1 Certified Dr, Hodgkins, Illinois 60525 (hereinafter referred to as the "Mortgagee"),

(Junior)

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

Above space for recorder's use

PINS: 13-12-116-004, 005

3701-23 North Harlem Avenue
Chicago, Illinois

Property Street Address:

Chicago, Illinois 60603
55 East Monroe, Suite 4200

Seyfarth Shaw
James A. Schraidt

RECORDING RETURN TO:
PREPARED BY AND AFTER
THIS DOCUMENT WAS

Doc#: 0435003043
Eugene "Gene" Moore Fee: \$80.00
Cook County Recorder of Deeds
Date: 12/15/2004 11:40 AM Pg: 1 of 29



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obligations of Joe Salamone and Vito Salamone under the Guaranty (collectively, the "Liabilities").

D. Pursuant to the Guaranty, Mortgagee is indebted to Mortgagee in the amount of up to One Million Seven Hundred Thousand and No/100 Dollars (\$1,700,000) plus interest, expenses and other charges.

E. Mortgagee acknowledges and agrees that it shall directly benefit from the extension of credit by Mortgagee under the Loan Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and to secure the payment and performance of the Liabilities, whether evidenced by a note or notes, or otherwise, or so much thereof as may be advanced, with interest thereon at the rate specified therein, now or hereafter arising under the terms hereof or in any other instrument constituting additional security for the Liabilities, provided that in no event shall the amount secured hereby exceed \$3,000,000; the Mortgagee does hereby mortgage, grant, bargain, sell, remise, alienate, release, warrant and convey unto the Mortgagee, its successors and assigns forever, the real estate described in Exhibit A, which is attached hereto and made a part hereof, which, with the property hereinafter described in paragraphs (a) through (e) below is referred to herein as the "Premises;"

TOGETHER WITH all right, title and interest, including the right of use or occupancy, which the Mortgagee may now have or hereafter acquire in and to:

(a) All buildings and improvements, now or hereafter located on, above or below the surface of the real estate described in Exhibit A, all privileges and other rights now or hereafter made appurtenant thereto including, without limitation, all right, title and interest of the Mortgagee in and to all streets, roads and public place, opened or proposed, and all easements and rights of way, public or private, now or hereafter used in connection with the Premises; and

(b) All fixtures, fittings, furnishings, furniture, appliances, apparatus, equipment, and machinery, including, without limitation, all gas and electric fixtures, radiators, heaters, engines, and machinery, boilers, ranges, ovens, elevators and motors, bathtubs, sinks, water closets, basins, pipes, faucets and other air-conditioning, plumbing and heating fixtures, mirrors, mantles, refrigerating plant, refrigerators, iceboxes, dishwashers, carpeting, furniture, laundry equipment, cooking apparatus and appliances, and all building material, supplies and equipment now or hereafter delivered to the Premises and intended to be installed therein; all other fixtures and personal property of whatever kind and nature at present contained in or hereafter placed in any building standing on the real estate described in Exhibit A; and all renewals, additions or replacements thereof or articles in substitution thereof; and all proceeds and profits thereof and all of the estate, right, title and interest of the Mortgagee in and to all property of any nature whatsoever, now or hereafter situated on, above or below the surface of the real estate described in Exhibit A or intended to be used in connection with the operation thereof. All of the foregoing shall be deemed to be fixtures and an accession to the freehold and a part of the realty as between the parties hereto, and all persons claiming by, through or under them, and shall be deemed to be a portion of the security for the payment and performance of the Liabilities. If the lien of this Mortgage on any fixtures or personal property be subject to a lease agreement,

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Default hereunder all the rights, title and interest of the Mortgagee in and to any and all deposits made thereon or therefor are hereby assigned to the Mortgagee, together with the benefit of any payments now or hereafter made thereon. There is also transferred, set over and assigned by the Mortgagee to the Mortgagee, its successors and assigns, hereby all leases and use agreements of machinery, equipment and other personal property of the Mortgagee in the categories hereinabove set forth, under which the Mortgagee is the lessee of, or entitled to use, such items. There is also transferred, set over and assigned to the Mortgagee, its successors and assigns, hereby all building and other permits used in connection with the construction of the improvements on the Premises, Mortgagee's interest in any contracts with contractors, subcontractors and materialmen in respect of the construction of the Premises and all other contracts pertaining to the design, construction, marketing, ownership, operation or management of the Premises or any real or personal property used in connection therewith. The Mortgagee agrees to execute and deliver to the Mortgagee specific separate assignments to the Mortgagee of such leases, agreements, plans, permits and it and when requested by the Mortgagee; but nothing herein shall obligate the Mortgagee to perform any obligations of the Mortgagee under such leases or agreements unless it so chooses; the Mortgagee hereby covenants and agrees to well and punctually perform such obligations; and

(c) All rents, incomes, profits, revenues, security deposits, royalties, bonuses, rights, accounts, contract rights, general intangibles and benefits under any and all leases or tenancies now existing or hereafter created on the Premises, or any part thereof, with the right to receive and apply the same to the Liabilities, and the Mortgagee may demand, sue for and recover such payments but shall not be required to do so; and

(d) All judgments, awards of damages and settlements hereafter made as a result of or in lieu of any taking of the Premises or any part thereof or interest therein under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Premises or the improvements thereon or any part thereof or interest therein, including any award for change of grade of streets; and

(e) All proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims.

The items set forth in paragraphs (b) through (e) above are sometimes hereinafter referred to as the "Collateral." To the fullest extent permitted by law, the items set forth in paragraphs (b) through (e) above shall be deemed a part of the real estate and covered by the lien of this Mortgage, and as to any such items which are not part of the real estate, this Mortgage is also a security agreement for the purpose of creating a security interest in such items, which security interest the Mortgagee hereby grants to the Mortgagee as security for the payment and performance of the Liabilities.

TO HAVE AND TO HOLD the above granted Premises, with all the privileges, hereditament and appurtenances to the same belonging or in any wise appertaining and all estate, rights, title and interests of the Mortgagee, its successors and assigns forever.

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(f) Financial Statements. All financial statements submitted to the Mortgagee in connection with this transaction are materially true and correct in all respects and have been

(e) No Suits, Etc. There are no actions, suits or proceedings (including, without limitation, any condemnation or bankruptcy proceedings) pending or threatened against the Mortgagee or the Premises, or which may adversely affect the validity or enforceability of this Mortgage, at law or equity, or before or by any governmental authority; the Mortgagee is not in default with respect to any writ, injunction, decree or demand of any court or any governmental authority affecting the Premises.

(d) Consistency with Other Agreements. The execution and performance of this Mortgage and the consummation of the transactions hereby contemplated will not result in any breach of, or constitute a default under, any mortgage, lease, bank loan, credit agreement, trust indenture, or other instrument to which the Mortgagee is a party or by which it may be bound or affected; nor do any such instruments conflict with any other obligations imposed on the Mortgagee under any other instrument(s) heretofore or hereafter delivered by the Mortgagee.

(c) No Defaults. The Mortgagee is not in default under any instrument or obligations relating to the Premises and no party has asserted any claim of default against the Mortgagee relating to the Premises.

(b) Enforceability of This Mortgage. This Mortgage has been duly executed and delivered pursuant to authority legally adequate thereto; the Mortgagee has been and is authorized and empowered by all necessary persons having the power of direction over it to execute and deliver said instrument; said instrument is a legal, valid and binding obligation of the Mortgagee, enforceable in accordance with its terms.

(a) Authority. The Mortgagee has full power and is duly authorized to make and enter into this Mortgage and to carry out the transactions contemplated herein.

1.01 General Covenants and Representations of Mortgagee. The Mortgagee hereby covenants and represents that:

The Mortgagee covenants and agrees with the Mortgagee that:

MORTGAGOR'S COVENANTS

ARTICLE I

PROVIDED, HOWEVER, that if the Mortgagee, its successors or assigns, shall pay or cause to be paid all of the Liabilities secured hereby at the time and in the manner stipulated, and shall keep and perform each and every covenant herein contained on part of the Mortgagee to be kept and performed, then, in such case, this Mortgage and the estate, right, title and interest of the Mortgagee in the Premises hereby granted, shall cease, terminate and become void, and upon proof being given to the satisfaction of the Mortgagee that the Liabilities have been paid or satisfied, the Mortgagee shall, upon receipt of the written request of the Mortgagee, cancel, release and discharge this Mortgage and cause same to be canceled and marked satisfied of record.

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prepared in accordance with generally accepted accounting principles consistently applied, and fairly present the financial condition of the parties and entities covered by such statements for the periods and as of the date thereof.

1.02 Title - Premises. The Mortgagee represents that it is lawfully seized of the Premises and has good and marketable title to an indefeasible fee simple estate in the Premises subject to no liens, charges or encumbrances, except for the First Mortgage and those set forth in Exhibit B, which is attached hereto and incorporated herein by this reference; that it has good and lawful authority to convey the Premises in the manner and form herein provided; that the Mortgagee has full power and authority to mortgage the Premises in the manner and form herein done or intended hereafter to be done; that this Mortgage is and shall remain a valid and enforceable first and prior lien on the Premises subject only to those exceptions to title in a lender's title insurance policy acceptable to the Mortgagee; that the Mortgagee and its successor and assignee shall defend the same, the priority of this lien and its title to the Premises forever against the insured claims and demands of all persons, and that this covenant shall not be extinguished by the exercise of any remedy upon or after any Event of Default or the exercise of any right, privilege, authority or power granted herein, but shall run with the land.

1.03 Title - Collateral. The Mortgagee has and shall maintain title to the Collateral, including any additions or replacements thereto, free of all security interests, liens and encumbrances, other than the security interest hereunder and other than as disclosed in Exhibit C, which is attached hereto and incorporated herein by this reference, and has good right to subject the Collateral to the security interest hereunder. Mortgagee shall have the right to replace fixtures and other items of personal property comprising the Collateral as and when may be required in the ordinary course of business due to wear and tear.

1.04 Further Assurances. The Mortgagee shall, at the cost of the Mortgagee and without expense to the Mortgagee, do, execute, acknowledge and deliver all and every such further acts, deeds, conveyances, mortgages, assignments, notices of assignments, transfers and assurances as the Mortgagee shall from time to time require for the better assuming, conveying, assigning, transferring and confirming unto the Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which the Mortgagee may be or may hereafter become bound to convey or assign to the Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage and, on demand, shall execute and deliver, and hereby authorizes the Mortgagee to execute and file in the name of the Mortgagee or otherwise to the extent it may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments, to evidence and perfect more effectively the lien hereof upon the Premises.

1.05 Recording. The Mortgagee shall cause the execution and delivery of this Mortgage and thereafter from time to time, shall cause this Mortgage, and any security instrument creating a lien or evidencing the lien hereof upon the Premises and each instrument of further assurance to be filed, registered or recorded in such manner and in such places as may be required by any present or future law in order to publish notice of and to fully protect the lien hereof upon, and the interest of the Mortgagee in, the Premises.

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1.06 Fees, Expenses, Taxes, Etc. The Mortgagee shall pay all filing, registration or recording fees, incident to the Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Mortgage, and any instrument of further assurance, and all federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of the Liabilities, this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Collateral or any instrument of further assurance.

1.07 Compliance With Law. The Mortgagee, so long as it is owner of the Premises, shall comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to the Mortgagee or to the Premises or any part thereof.

1.08 Payment of Liabilities. The Mortgagee shall promptly and punctually pay or cause to be paid all principal and interest, and all other sums to become due in respect of the Liabilities, according to the true intent and meaning thereof.

1.09 Deposit With Mortgagee. Intentionally Deleted

1.10 Maintenance and Repair. The Mortgagee, during all times until the Liabilities are fully paid, shall keep the Premises in good operating order, repair and condition and shall not commit or permit any waste thereof and thereon. The Mortgagee shall make all repairs, replacements, renewals, additions and improvements to any building or improvements which may be now located or later constructed on the Premises, in good workmanlike manner, and shall pay when due all costs incurred therefor. The Mortgagee shall not remove from the Premises or demolish any of the property conveyed hereby, nor demolish or materially alter the Premises without the prior written consent of the Mortgagee. The Mortgagee shall not unreasonably withhold its consent to material alterations of the Premises.

1.11 Compliance with Laws. The Mortgagee shall comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the Premises or the operation thereof, and shall pay all fees or charges of any kind in connection therewith.

1.12 Insurance.

(a) Insurance. The Mortgagee, during all the time until the Liabilities are fully paid, shall keep all buildings and improvements and Collateral now or hereafter situated on the Premises insured against loss or damage by fire and other hazards as may be required by the Mortgagee, including, without limitation, fire and extended coverage, vandalism, rent loss or business interruption, malicious mischief and (if the Premises includes sprinklers) sprinkler leakage, and including as to the Premises during the time of construction, a so-called Builder's Risk Completed Value nonreporting form of policy which prior to the completion of construction shall be written on a Standard Completed Value Form and shall be for the full insurable value as determined thereunder with a deductible of not greater than \$5,000.00 and after completion of construction, shall be for 100% of the insurable replacement value of the buildings, improvements and Collateral now or hereafter situated on the Premises, together with Commercial Liability insurance (in an amount not less than \$5,000,000.00 for both property

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damage and bodily injury) and together with insurance against flood (if required by the Federal Flood Disaster Protection Act of 1973 and regulations issued thereunder or any other law applicable to the Lender), and together with all such additional coverage as the Lender may from time to time require.

(b) Additional Insurer and Policy Requirements. All policies of insurance to be furnished pursuant to subparagraph 1.12(a) shall be in forms, with companies and in amounts satisfactory to the Mortgagee, with Standard Mortgage Clauses attached to all policies in favor of and in form satisfactory to the Mortgagee, including a provision requiring that the coverage evidence thereby shall not be terminated or materially modified without thirty (30) days prior written notice to the Mortgagee. The Mortgagee shall deliver all policies, including additional and renewal policies, to the Mortgagee, and, in the case of insurance about to expire, shall deliver renewal policies not less than thirty (30) days prior to their respective dates of expiration. In lieu of the original policies required hereunder, the Mortgagee may deliver to the Mortgagee certificates herefor together with copies of all such policies which copies must be certified by the insurance agent to be true, complete, and correct and in full force and effect.

(c) Other Insurance. The Mortgagee shall not take out separate insurance concurrent in form or content in the event of loss with that required to be maintained hereunder unless the Mortgagee is included thereon under a Standard Mortgage Clause acceptable to the Mortgagee. The Mortgagee shall immediately notify the Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to the Mortgagee the policy or policies of such insurance.

(d) Effect of Foreclosure. In the event of a foreclosure or other transfer of title to the Premises in lieu of foreclosure, or by purchase at the foreclosure sale, all interest in any insurance policies in force shall pass to the Mortgagee, transferee or purchaser as the case may be.

(e) Illinois Collateral Protection Act Notice. The following notice is provided pursuant to paragraph (3) of Section 180/10 of Chapter 815 of the Illinois Compiled Statutes (1998). As used herein, "you" means the Mortgagee and "we" means the Mortgagee: "UNLESS YOU PROVIDE EVIDENCE OF THE INSURANCE COVERAGE REQUIRED BY YOUR AGREEMENT WITH US, WE MAY PURCHASE INSURANCE AT YOUR EXPENSE TO PROTECT OUR INTERESTS IN YOUR COLLATERAL. THIS INSURANCE MAY, BUT NEED NOT, PROTECT YOUR INTERESTS. THE COVERAGE THAT WE PURCHASE MAY NOT PAY ANY CLAIM THAT YOU MAKE OR ANY CLAIM THAT IS MADE AGAINST YOU IN CONNECTION WITH THE COLLATERAL. YOU MAY LATER CANCEL ANY INSURANCE PURCHASED BY US, BUT ONLY AFTER PROVIDING EVIDENCE THAT YOU HAVE OBTAINED INSURANCE AS REQUIRED BY OUR AGREEMENT. IF WE PURCHASE INSURANCE FOR THE COLLATERAL, YOU WILL BE RESPONSIBLE FOR THE COSTS OF THAT INSURANCE, INCLUDING THE INSURANCE PREMIUM, INTEREST AND ANY OTHER CHARGES WE MAY IMPOSE IN CONNECTION WITH THE PLACEMENT OF THE INSURANCE, UNTIL THE EFFECTIVE DATE OF THE CANCELLATION OR EXPIRATION OF THE INSURANCE. THE COSTS OF THE INSURANCE MAY BE ADDED TO YOUR TOTAL OUTSTANDING BALANCE

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OR OBLIGATION. THE COSTS OF THE INSURANCE MAY BE MORE THAN THE COST OF INSURANCE YOU MAY BE ABLE TO OBTAIN ON YOUR OWN."

(f) The rights of Mortgagee under this Section 1.12 shall be subject to the rights of the mortgagee under the First Mortgage.

1.13 Casualty. The Mortgagee shall promptly notify the Mortgagee of any loss,

whether covered by insurance or not. Except as otherwise provided in Paragraph 9.8 of the Loan Agreement, in which case the terms and provisions of the Loan Agreement, at Mortgagee's option, shall govern and control, in case of loss or damage by fire or other casualty, the Mortgagee is authorized (i) to settle and adjust any claim under insurance policies which insure against such risks, or (ii) to allow the Mortgagee to agree with the insurance company or companies on the amount to be paid in regard to such loss. In either case, the Mortgagee is authorized to collect and receipt for any such insurance money. Such insurance proceeds may, at the option of the Mortgagee, be applied in the reduction of the indebtedness secured hereby, whether due or not, or be held by the Mortgagee, with only money market rates of interest to accrue thereon (so long as there is no occurrence of an Event Default), and used to pay the Mortgagee's cost of the rebuilding or restoration of buildings or improvements on the Premises. If the Mortgagee elects to make said proceeds available to pay the Mortgagee's cost of the rebuilding or restoration of the buildings or improvements on the Premises, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require, including, without limitation, (i) approval of plans and specifications of such work before such work shall be commenced, (ii) suitable completion or performance bonds and Builder's All Risk Insurance, (iii) that no insurer has asserted a defense to payment of said proceeds or claimed any rights of participation and/or assignment of rights with respect to the Liabilities, and (iv) all funds necessary to complete said rebuilding or restoration in excess of the insurance proceeds be deposited with the Mortgagee, held with only money market rates of interest to be made available to Mortgagee so long as there is no Event of Default, and applied toward the rebuilding or restoration before any insurance proceeds are used for such purpose. Mortgagee shall be responsible for the payment of all income taxes on any interest earned in accounts established with insurance proceeds funds and Mortgagee deficiency deposits made towards rebuilding costs. The buildings and improvements shall be so restored or rebuilt as to be of at least equal value and substantially the same character as prior to such damage or destruction. If the proceeds are made available by the Mortgagee to pay the Mortgagee's cost of said rebuilding or restoration, any surplus which may remain out of said insurance proceeds after payment of such cost of rebuilding or restoration, at the option of the Mortgagee, shall be applied against the Liabilities or be paid to the Mortgagee. The rights of Mortgagee under this Section 1.13 shall be subject to the rights of the mortgagee under the First Mortgage.

1.14 Condemnation. The Mortgagee, immediately upon obtaining knowledge of the institution of, or the announcement of any plan to institute, any proceeding for the condemnation of the Premises or any portion thereof, shall notify the Mortgagee of the pendency thereof. The Mortgagee hereby assigns, transfers and sets over unto the Mortgagee all compensation, rights of action, the entire proceeds of any award and any claim for damages for any of the Premises taken or damaged under the power of eminent domain or by condemnation or by sale in lieu thereof. The Mortgagee may, at its option, commence, appear in and prosecute, in its own name, any action or proceeding, or make any compromise or settlement, in connection with such

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(a) General. The Mortgagee shall pay in full when due, and in any event before any penalty or interest attaches, all general taxes and assessments, special assessments, water charges, sewer service charges, and all other charges against the Premises and shall furnish to the Mortgagee official receipts evidencing the payment thereof.

(b) Contest. The Mortgagee may, in good faith and with reasonable diligence, contest the validity or amount of any such taxes, assessments, or charges in the manner provided by law, in which event the Mortgagee shall pay in full the amount then due and payable, under

1.16 Taxes and Assessments.

1.15 Lien and Encumbrances. The Mortgagee shall pay when due all obligations, lawful claims and demands of any person which, if unpaid, might result in, or permit the creation of, a lien or encumbrance on the Premises, the Collateral or the rents, issues, income and profits arising therefrom, whether such lien would be senior or subordinate hereto, including, but without limiting the generality of the foregoing, all obligations secured by the First Mortgage, all claims of mechanics, materialmen, laborers and others for work or labor performed, or materials or supplies furnished in connection with any work of demolition, alteration, improvement of or construction upon the Premises and in general will do or cause to be done everything necessary so that the first lien of this Mortgage shall be fully preserved, at the cost of the Mortgagee, without expense to the Mortgagee. Mortgagee shall not be required to make any such payment so long as Mortgagee shall, in good faith and with due diligence, and at Mortgagee's sole cost and expense, contest such obligation, claim or demand or the validity thereof by appropriate legal proceedings; provided, however, that pending any such legal proceedings, Mortgagee shall have first given Mortgagee such security as may be deemed satisfactory to Mortgagee in its sole and absolute discretion to insure the payment of any such obligation, claim or demand and all interest thereon. If, at any time during the pendency of any such legal proceedings or continuance of such contest, the Premises or any part thereof is, in the sole and absolute judgment of Mortgagee in imminent danger of being forfeited, lost or sold in payment of any such obligation, claim or demand so contested, Mortgagee may use such security for the payment of such obligation, claim or demand.

and under the conditions that the Mortgagee may require under all or any of the conditions provided under paragraph 1.13 above. If the proceeds are made available by the Mortgagee to pay the Mortgagee's cost of said rebuilding or restoration, any surplus which may remain out of said award after payment of such cost of rebuilding or restoration, at the option of the Mortgagee, shall be applied against the Liabilities or be paid to the Mortgagee. The Mortgagee agrees to execute such further assignments of any compensation, award, damages, right of action and proceeds, as the Mortgagee may require. The rights of Mortgagee under this Section 1.14 shall be subject to the rights of the mortgagee under the First Mortgage.

condemnation, taking under the power of eminent domain or sale in lieu thereof. After deducting therefrom all of its expenses, including, without limitation, attorneys' fees, the Mortgagee may elect to apply the proceeds of the award upon or in reduction of the Liabilities, whether due or not, or hold said proceeds without any allowance of interest and make the same available for restoration or rebuilding of the Premises. In the event that the Mortgagee elects to make said proceeds available to pay the Mortgagee's cost of the rebuilding or restoration of the buildings or improvements on the Premises, such proceeds shall be made available in the manner and under the conditions that the Mortgagee may require under all or any of the conditions provided under paragraph 1.13 above. If the proceeds are made available by the Mortgagee to pay the Mortgagee's cost of said rebuilding or restoration, any surplus which may remain out of said award after payment of such cost of rebuilding or restoration, at the option of the

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protest in the manner provided by law, of any tax, assessment, rate, rental or charge which the Mortgagee may desire to contest. All costs and expenses incidental to any such contest shall be paid by the Mortgagee.

1.17 Indemnification. The Mortgagee shall appear in and defend any suit, action or proceeding that might, in the sole judgment of the Mortgagee or that might, in its reasonable judgment, in any way affect the value of the Premises. The Mortgagee shall, at all times, indemnify, hold harmless and on demand, reimburse the Mortgagee for any and all loss, damage, expense, cost, or liability, including, but not limited to, cost of evidence of the title and attorneys' fees, arising out of or incurred in connection with any such suit, action or proceeding, and the sum of such expenditures shall be secured by this Mortgage, with interest at the Default Rate as provided in the Loan Agreement or the maximum rate of interest permitted by law, whichever is lower (such rate is hereinafter referred to as the "Default Rate"). Such interest shall be due and payable on demand. The Mortgagee shall pay all costs, including, but not limited to, costs of suit, evidence of title and attorneys' fees in any proceeding or suit brought by the Mortgagee to foreclose this Mortgage.

1.18 Mortgagee's Agreement Not To Convey. In order to induce the Mortgagee to make the loan secured by this Mortgage, the Mortgagee agrees not to sell, convey, refinance or otherwise dispose of all or any part of the Premises without the prior written consent of the Mortgagee and that if the Premises, or any part thereof, or interest, legal or equitable, therein is sold, assigned, transferred, leased, conveyed or otherwise alienated by the Mortgagee, whether voluntarily or involuntarily or by operation of law, or an option granted for any such interest in either or any case without the prior written consent of the Mortgagee, the Mortgagee, at its option, may declare the Liabilities to be forthwith due and payable. Any change, without the prior written consent of the Mortgagee, in the legal or equitable title or in the beneficial ownership of the Premises or of the Mortgage, whether or not of record and whether or not for consideration or sale or other disposition of any stock or of other form of equity ownership interest in the Mortgage, shall be deemed a transfer of an interest in the Premises, except that any transfer or change caused directly as a result of the laws of descent, distribution or descent shall not be considered a violation of this paragraph.

1.19 Advances. If the Mortgagee shall fail to perform any of the covenants herein contained or contained in any other instrument constituting additional security for the Liabilities, the Mortgagee may, but without obligation to do so, make advances to perform the same in the Mortgagee's behalf, and all sums so advanced shall be a lien upon the Premises and shall be secured by this Mortgage. The Mortgagee shall repay, on demand, all sums so advanced in its behalf with interest at the Default Rate. Nothing herein contained shall prevent any such failure to perform on the part of the Mortgagee from constituting an Event of Default as defined below.

1.20 Time. The Mortgagee agrees that time is of the essence hereof in connection with the payment and performance of the Liabilities.

1.21 Estoppel Certificates. The Mortgagee shall at any time and from time to time, within ten (10) days after written request from the Mortgagee, execute and deliver to the Mortgagee or any prospective assignee of the Liabilities a sworn and acknowledged estoppel

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1.24 Uniform Commercial Code Matters. This Mortgage is also intended to be a "Code". All references in this Mortgage to the Code are to the Code as from time to time in

1.23 Records. The Mortgagee agrees to keep adequate books and records of account in accordance with generally accepted accounting principles consistently applied and shall permit the Mortgagee, and its agents, accountants and attorneys, to visit and inspect the Premises and to examine the Mortgagee's books and records of account, and to discuss the Mortgagee's affairs, finances and accounts which the Mortgagee may request.

1.22 Inspections. The Mortgagee and its agents, accountants and attorneys shall have the right to enter the Premises, including the interior of any structures, at any reasonable time, for the following purposes: (i) to ascertain the condition of the Premises; (ii) to determine whether the Mortgagee is diligently fulfilling the Mortgagee's responsibilities under the Mortgage; (iii) to clean and to make such repairs as may be required or permitted to be made by the Mortgagee under the terms of this Mortgage; (iv) to do any other act or thing which the Mortgagee deems necessary, advisable, desirable, expedient, convenient or proper to preserve the Premises or to protect the security hereof; or (v) to show the Premises, or any part thereof, to prospective purchasers of the Premises, or any part thereof.

requested so to do, the Mortgagee's failure to do so shall be deemed an Event of Default. Mortgagee an estoppel certificate as set forth above within ten (10) days after the Mortgagee is power or remedy the Mortgagee may have hereinafter, if the Mortgagee does not deliver to the Mortgagee on behalf of the Mortgagee. In addition to any other right, privilege, authority, the Mortgagee on behalf of the Mortgagee, if the Mortgagee fails to deliver a copy of the certificate executed by (5) days after delivery to the Mortgagee, including a copy of the certificate executed by fully binding on the Mortgagee, if the Mortgagee fails to deliver a contrary certificate within five the same within such ten (10) day period and such certificate as signed by the Mortgagee shall be deliver in the name of the Mortgagee or such estoppel certificate if the Mortgagee fails to deliver Mortgagee as attorney-in-fact for the Mortgagee with full power and authority to execute and misstatement contained in such estoppel certificate. The Mortgagee hereby irrevocably appoints expense or liability resulting from the failure of any sale or funding of any loan caused by any and their respective successors and assigns and Mortgagee shall be liable for all loss, cost, paragraph in by relied upon by the Mortgagee and any prospective assignee of the liabilities assignee of the liabilities. It is intended that any such statement delivered pursuant to this and (vii) any other accurate statements reasonably required by the Mortgagee or a prospective assignee of the liabilities. It is intended that any such statement delivered pursuant to this paragraph in by relied upon by the Mortgagee and any prospective assignee of the liabilities and their respective successors and assigns and Mortgagee shall be liable for all loss, cost, expense or liability resulting from the failure of any sale or funding of any loan caused by any Mortgagee as attorney-in-fact for the Mortgagee with full power and authority to execute and deliver in the name of the Mortgagee or such estoppel certificate if the Mortgagee fails to deliver the same within such ten (10) day period and such certificate as signed by the Mortgagee shall be fully binding on the Mortgagee, if the Mortgagee fails to deliver a contrary certificate within five (5) days after delivery to the Mortgagee. In addition to any other right, privilege, authority, power or remedy the Mortgagee may have hereinafter, if the Mortgagee does not deliver to the Mortgagee an estoppel certificate as set forth above within ten (10) days after the Mortgagee is requested so to do, the Mortgagee's failure to do so shall be deemed an Event of Default.

certificates, in form satisfactory to the Mortgagee and/or the Mortgagee's prospective assignee of the liabilities certifying and stating as follows: (i) this Mortgage and the liabilities secured hereby have not been modified or amended (or if modified or amended, setting forth such modifications or amendments); (ii) this Mortgage and the liabilities as so modified or amended are in full force and effect (or if not in full force and effect, the reasons therefor); (iii) the Mortgagee has no offsets or defenses to its performance of the terms and provisions of this Mortgage and no event has occurred which with the giving of notice or the passage of time or both would constitute an Event of Default as defined herein (or if there are any such defenses, offsets or events, specifying the same); (iv) the Mortgagee is in possession of the Premises, if such be the case; (v) if an assignment of the liabilities has been served upon the Mortgagee by the Mortgagee or a prospective assignee of the liabilities, the Mortgagee has received such assignment and agrees to be bound by the provisions thereof; (vi) the amount of the liabilities; and (vii) any other accurate statements reasonably required by the Mortgagee or a prospective assignee of the liabilities. It is intended that any such statement delivered pursuant to this paragraph in by relied upon by the Mortgagee and any prospective assignee of the liabilities and their respective successors and assigns and Mortgagee shall be liable for all loss, cost, expense or liability resulting from the failure of any sale or funding of any loan caused by any Mortgagee as attorney-in-fact for the Mortgagee with full power and authority to execute and deliver in the name of the Mortgagee or such estoppel certificate if the Mortgagee fails to deliver the same within such ten (10) day period and such certificate as signed by the Mortgagee shall be fully binding on the Mortgagee, if the Mortgagee fails to deliver a contrary certificate within five (5) days after delivery to the Mortgagee. In addition to any other right, privilege, authority, power or remedy the Mortgagee may have hereinafter, if the Mortgagee does not deliver to the Mortgagee an estoppel certificate as set forth above within ten (10) days after the Mortgagee is requested so to do, the Mortgagee's failure to do so shall be deemed an Event of Default.

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The assignment provided for herein is an absolute present transfer and assignment of the leases and Rents to the Mortgagee to secure the payment in full of the Liabilities. Although it is the intention of the parties that the assignment provided for herein shall be a present assignment,

of the Premises.
(f) Any and all rights, claims, actions and causes of action of every kind which Mortgagee now has or may hereafter have against any present or future tenant or occupant

(e) Any and all payments now or hereafter made by any present or future tenant or occupant of the Premises in lieu of rent; and

(d) Any award or payment hereafter made to Mortgagee in any bankruptcy, insolvency or reorganization proceeding involving any tenant or occupant of the Premises;

(c) All security deposits (subject to the rights of the tenants therein) now or hereafter made under, and all guarantees of, any and all of the Leases;

(b) All rents, rentals, fees, profits, payments and other sums of money that may now be or at any time hereafter become due and payable to Mortgagee, or any of them, under the terms of the Leases;

(a) All right, title, interest and estate of Mortgagee, as landlord or lessor, in, to and under all of the lease and/or sublease agreements, licenses and other agreements for occupancy of the Premises, whether such lease and/or sublease agreements, licenses and other agreements now exist or are hereafter entered into by Mortgagee, together with all extensions, renewals and/or modifications of, or substitutions for, such lease and/or sublease agreements, licenses and other occupancy agreements (collectively, the "Leases");

2.01 Assignment of Leases, Rents and Profits. Mortgagee hereby grants, conveys, assigns, transfers and sets over to Mortgagee, its successors and assigns, the following (collectively, the "Leases and Rents") to applied by Mortgagee to the payment of the Liabilities:

ASSIGNMENT OF RENTS

ARTICLE II

effect. The Mortgagee represents and warrants to the Mortgagee as follows: (i) the exact legal name of the Mortgagee as stated in the first paragraph of this Mortgage; and (ii) the nature of this Mortgage. The Mortgagee shall not, without the prior written consent of the Mortgagee, change the Mortgagee's legal name, the nature of the Mortgagee entity, the State in which the Mortgagee is organized or the Mortgagee's organization number in the State in which it is organized. The Mortgagee acknowledges that by entering into the security agreements contained in this Mortgage, the Mortgagee has authorized the filing of financing statements and amendments under the Code covering the collateral described in the Mortgage, without the signature of the Mortgagee.

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2.04 Collection of Rents and Profits. Upon an Event of Default, and in addition to any other rights and remedies elsewhere provided in this Mortgage, Mortgagee, in the exercise of the rights and powers conferred upon it by the assignment provided for herein (and regardless of whether Mortgagee shall have entered into possession of the Premises shall have the right, power and privilege (but shall be under no duty) to take possession of the leased premises described in any lease of all or any portion of the Premises, or any part thereof, including any documents, books, records, plans and specifications and accounts of Mortgagee related thereto (legible copies of which will be provided to Mortgagee at Mortgagee's written request and at Mortgagee's sole expense), and have, hold, manage, lease, insure and operate (including the making of repairs, alterations, additions and betterments) the same on such terms and for such period of time as Mortgagee may deem proper, and either with or without taking possession of said premises, Mortgagee shall have the right, power and privilege (but shall be under no duty), and is hereby appointed by Mortgagee as its true and lawful attorney-in-fact, with power of substitution, immediately to collect and sue for, in its own name, or in the name of the Mortgagee, such rents, rentals, fees, payments and/or other sums of money as they become due.

2.03 Covenants. Mortgagee agrees that, so long as the Liabilities or any part thereof shall remain unpaid, Mortgagee will make no further assignment, pledge or disposition of the Leases and Rents, except by the First Mortgagee, without the prior written consent of Mortgagee; will not alter, amend, modify, terminate or renew any Lease, or waive any condition thereof, without the prior written consent of Mortgagee; will provide prompt notice to Mortgagee of any material default by Mortgagee or any lessee under any Lease, together with a complete copy of any notice delivered by or to Mortgagee as a result of such default; and at the sole cost and expense of Mortgagee, will enforce the performance or observance of each and every covenant and condition of any Lease to be performed or observed by any lessee in every lawful manner, provided that in no event shall Mortgagee terminate any Lease without prior written consent of Mortgagee. Mortgagee hereby covenants to observe and perform when due all of the obligations imposed upon it as the lessor under any Lease and not to do or permit to be done anything to impair the security thereof. Mortgagee may, at its option, although it shall not be obligated to do so, perform any lease covenant for and on behalf of Mortgagee, and any monies expended in so doing shall be chargeable with interest at the Default Rate (as defined in the Loan Agreement) to Mortgagee and added to the Liabilities.

2.02 Representations and Warranties of Mortgagee. Mortgagee hereby warrants and represents to Mortgagee that there are no prior or subordinate assignments of the Leases and Rents or of the rents, rentals, fees, profits, payments or other sums of money that are now or may hereafter become due and payable thereunder; no other act has been performed, nor has there been a ny other instrument executed which might prevent Mortgagee from enjoying and exercising any of its rights and privileges granted hereby.

The rights of Mortgagee under this Section 2.01 shall be subject to the rights of the mortgagee under the First Mortgage.

2.01 prior to an Event of Default, Mortgagee shall have a license to collect all rents, rentals, fees, profits, payments and other sums of money that become due and payable under any lease of all or any portion of the Premises, but not more than one (1) month in advance, without the prior written consent of Mortgagee.

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2.06 Excursion and Indemnification of Mortgagee. Mortgagee shall not be liable for any loss sustained by Mortgagee resulting from Mortgagee's failure to let or operate the premises described in the Leases after default by Mortgagee, or from any other act or omission of Mortgagee in managing the leased premises described in any lease of all or any portion of the premises after default by Mortgagee, unless such loss is caused by the willful misconduct of Mortgagee, or shall Mortgagee be obligated to perform or discharge any obligation, duty or liability under said Leases, or under or by reason of the assignment provided for herein. Mortgagee shall and hereby agrees to indemnify Mortgagee for, and to hold Mortgagee harmless from and against, any and all liability, claim, demand, loss or damage that may or might be incurred by Mortgagee under any lease of all or any portion of the premises or under or by reason of the assignment provided for herein and/or from any and all claims and demands or undertakings on Mortgagee's part to perform or discharge any of the terms, covenants or agreements contained in any lease of all or any portion of the premises, such indemnification to include Mortgagee's reasonable attorneys' fees. In the event Mortgagee incurs any such liability under any lease of all or any portion of the premises, or under or by reason of the assignment provided for herein, or in defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby and Mortgagee shall reimburse Mortgagee therefor immediately upon demand, failing which Mortgagee may, at its option, declare all sums secured by this Mortgage to be immediately due and payable. The assignment provided for herein shall not operate to place responsibility upon Mortgagee for the control, care, management or repair of the leased premises covered by any lease of all or any portion of the premises, nor for the carrying out of any of the terms and conditions of any lease

2.05 Application of Rents and Profits Collected by Mortgagee. Mortgagee, in the exercise of the rights and powers conferred upon it by the assignment provided for herein, shall have full power to use and apply the rents, rentals, fees, payments and other sums of money that become due under any lease of all or any portion of the premises to the payment of, or on account of, the following, and in such order as Mortgagee, in its sole discretion, may determine: (i) to the costs of collecting the same (including, without limitation, reasonable attorneys' fees); (ii) to the payment of the operating expenses of the premises, including, but not limited to, insurance, management fees and leasing commissions; (iii) to the payment of taxes and assessments (general and/or special) levied against the premises; (iv) to the payment of the cost of all repairs, renovations, alterations, additions, betterments and improvements necessary, in the sole reasonable judgment of Mortgagee, to make the premises ready or more easily rentable; and (v) to the payment of the liability.

A written demand by Mortgagee to any lessee for the payment of rent, rentals, fees, profits, payments and other sums of money that may become due under any lease of all or any portion of the premises, after the occurrence of any default, breach or misrepresentation by Mortgagee claimed by Mortgagee, shall be sufficient to warrant such lessee to make all future payments of such rents, rentals, fees, payments and other sums of money directly to Mortgagee without the necessity for further consent by Mortgagee. Each such lessee shall be entitled to rely upon a written demand by Mortgagee for such payment (without any further inquiry) and is expressly relieved of any and all duty, liability or obligation to Mortgagee for all payments so made. The rights of Mortgagee under this Section 2.04 shall be subject to the rights of the mortgagee under the First Mortgage.

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of all or any portion of the Premises, nor shall it operate to make Mortgagee responsible or liable for any waste committed on the Premises by the tenants or for any dangerous or defective condition of the Premises, or for any negligence in the management, upkeep, repair or control of the Premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

2.07 Mortgagee Not Mortgagee in Possession. The assignment provided for herein shall not be construed as constituting Mortgagee as "Mortgagee in possession" of the Premises in the absence of the taking of actual possession of the Premises. In the exercise of any of the powers herein granted Mortgagee, no liability or claim of any kind relating to or resulting from the exercise of any such powers shall be asserted or enforced against Mortgagee, all such liabilities and claims being expressly waived and released by Mortgagee.

2.08 Notice to Tenant. Mortgagee hereby authorizes Mortgagee to give written notice of this Assignment at any time and from time to time to any present or future tenant of the Premises.

2.09 Information. Mortgagee shall furnish to Mortgagee, within thirty (30) days after a request by Mortgagee to do so, a written statement containing the names of all lessees or occupants of the Premises, the terms of their respective leases or tenancies, the spaces occupied or leased, and the rents paid. If any such leases provide for the giving by the lessee of certificates to the status of such leases, Mortgagee shall exercise its right to request such certificates within five (5) days of any demand therefor by Mortgagee.

ARTICLE III

DEFAULT

3.01 Events of Default. The following events shall be deemed to be Events of Default hereunder:

(a) **Payment of Liabilities.** Failure to make any payment when due and payable or declared due and payable in accordance with the terms of the Liabilities, this Mortgage, or any other instrument constituting additional security for the Liabilities.

(b) **Default under the First Mortgage.** The occurrence of an event which with the giving of notice or the passage of time or both would constitute a default or an event of default under the First Mortgage.

(c) **Performance of Terms, Covenants and Conditions.** Failure to perform, keep or observe any of the terms, covenants, provisions or conditions in this Mortgage, and the continuation of such failure for thirty (30) days after written notice of such default from Mortgagee.

(d) **Warranties and Representations.** Untruth of or failure of the Mortgagee to comply with any material warranties or representations given by the Mortgagee to the Mortgagee in this Mortgage or in any other instrument evidencing or securing the Liabilities, orally or in any other instrument, writing or agreement.

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- (e) **Reporting.** If any statement, report or certificate made or delivered by the Mortgagor, Mortgagor's beneficiaries or any of its partners, officers, employees or agents, to the Mortgagor is not materially true and correct.
- (f) **Default Under Other Instruments.** The occurrence of an event which with the giving of notice or the passage of time or both would constitute a default or an Event of Default under the Loan Agreement or any other instrument evidencing the Liabilities, or any other instrument constituting additional evidence of or security for the Liabilities, if such default or Event of Default is not cured within any applicable grace period.
- (g) **Guarantors.** The occurrences of an event which with the giving of notice or the passage of time or both would constitute a default or an Event of Default under any agreement, instrument or document executed and delivered by any person to the Mortgagee pursuant to which such person has guaranteed to the Mortgagee the performance, payment or collection of the Liabilities or has granted to the Mortgagee a security interest or lien in and to some or all of such person's real and/or personal property to secure the payment of the Liabilities, if such default or Event of Default is not cured within any applicable grace period.
- (h) **Current Indebtedness.** If the Mortgagor, or any beneficiary of Mortgagor, is in default in the payment of any indebtedness (other than the Liabilities) to any other person or in default in the performance of any other obligations arising therefrom and such default is declared and is not cured within the time, if any, specified therefor in any agreement governing the same.
- (i) **Enforcement of First Mortgage or Junior Security.** The accrual to the then holder thereof of the right to institute foreclosure or other proceedings to enforce the First Mortgage or any junior mortgage or junior security interest, lien or encumbrance of any kind upon the Premises or any portion thereof.
- (j) **Actions of Others.** If the Mortgage is enjoined, restrained or in any way prevented by court order or by any administrative body or regulatory agency from conducting all or any material part of its business affairs or if a petition under any section or chapter of the Bankruptcy Code or any similar law or regulation (state or federal) whether now or hereafter existing, is filed against the Mortgage or if any case or proceeding is filed against the Mortgage for its dissolution or liquidation and such injunction, restraint or petition is not dismissed or stayed within thirty (30) days after the entry or filing thereof, if an application is made by any person other than the Mortgage for the appointment of a receiver, trustee, or custodian for the Premises or for any other of the Mortgage's assets and the same is not dismissed within thirty (30) days after the application thereof, if a notice of lien, levy or assessment is filed or record with respect to all or any of the Mortgage's assets by the United States or any department, agency or instrumentality thereof or by any state, county, municipal or other governmental agency, including, without limitation, the Pension Benefit Guaranty Corporation, or if any taxes or debts owing at any time or times hereafter to any one of them becomes a lien or encumbrance upon the Premises or upon any other of the Mortgage's assets and the same is not released within thirty (30) days after the same becomes a lien or encumbrance.
- (k) **Attachment, etc.** If the Premises or any other of the Mortgagor's assets are attached, seized, or subjected to a writ or distress warrant, or are levied upon, or come within

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the possession of any receiver, trustee, custodian or assignee for the benefit of creditors and the same is not terminated or dismissed within thirty (30) days thereafter.

(1) Insolvency. Should the Borrower, Mortgagor, or any other guarantor of the Liabilities, or any successors and assigns thereof, including, without limitation, the then current owners of any interest in the Premises or in the Mortgagor:

(i) file a petition in voluntary bankruptcy or for an arrangement or reorganization pursuant to the Bankruptcy Code or any similar law or regulation (state or federal) whether now or hereafter existing (hereinafter referred to as a "Bankruptcy Proceeding");

(ii) file any answer admitting insolvency or inability to pay its debts;

(iii) fail to obtain a vacation or stay of any involuntary Bankruptcy Proceeding within Sixty (60) days after the filing thereof;

(iv) be adjudicated a bankrupt or declared insolvent in any Bankruptcy Proceeding;

(v) have a trustee or receiver appointed for or have any court take jurisdiction of its property, or the major part thereof, in any involuntary proceeding for the purpose of reorganization, arrangement, dissolution or liquidation if such trustee or receiver shall not be discharged or if such jurisdiction shall not be relinquished, vacated or stayed on appeal or otherwise within Sixty (60) days;

(vi) make an assignment for the benefit of its creditors;

(vii) admit in writing its inability to pay its debts generally as they become due;

(viii) consent to an appointment of a receiver or trustee of all of its property, or the major part thereof; or

(ix) die, be adjudicated an incompetent or dissolved.

3.02 Remedies.

(a) Acceleration; Foreclosure. Upon and after any such Event of Default, the Mortgagee, without further notice, notice hereby being expressly waived, may declare the Liabilities then outstanding (even if not then due and payable) to be due and payable immediately, and upon any such declaration the Liabilities shall become and be immediately due and payable, anything in the Note, in this Mortgage or in any other document related to the Liabilities to the contrary notwithstanding. When the Liabilities become due, by acceleration or otherwise, Mortgagee shall have the right to foreclose the lien hereof for such Liabilities.

(b) Appointment of Receiver; Mortgagee In Possession. The Mortgagee, in any judicial proceedings to foreclose the lien hereof or upon actual or threatened waste to the

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- Premises or if an Event of Default shall have occurred and be continuing, upon application to a court of competent jurisdiction, shall be entitled, without notice and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver(s) or to be appointed mortgagee in possession to take possession of and to operate the Premises and to collect the rents and profits thereof, which receiver(s) or Mortgagee-in-possession shall have the following powers and authorities in addition to all other powers and authorities permitted by applicable law:
- (i) To take possession of the Premises (or any portion thereof) and collect the rents, including accrued and past-due rents, income and profits emanating therefrom and to lease the Premises in such parcels, portions, and/or units and for such time and on such terms as any receiver(s) or the mortgagee in possession may see fit, and, to cancel any lease, sublease, occupancy agreement or other contract or agreement of whatever nature affecting the Premises (or any portion thereof) for any cause or on any ground which would entitle Mortgagee to cancel the same; and, after paying out of all the rents, income and profits emanating from the Premises (or any portion thereof), all expenses of holding, managing and/or operating the Premises, including, without limitation, insurance premiums, attorneys' fees, and the cost of such repairs, replacements, restoration, maintenance and alterations necessary to bring the Premises (or any portion thereof) to, and maintain the Premises (or any portion thereof) at, a good and rentable condition, and all taxes and assessments upon the Premises, said receiver(s) or the mortgagee in possession shall apply the residue of said rents, income and profits, if any, first, to the Liabilities and shall pay the surplus, if any, to Mortgagee or to any person entitled thereto.
- (ii) To make and enter into agreement(s) with one or more reliable and reputable real estate sales, rental, management, construction and/or consulting firm(s) (at such compensations as the receiver(s) or the mortgagee in possession deem to be the prevailing rate for such services), to permit such firm(s) to act as agent for the receiver(s) or the mortgagee in possession in: (i) the negotiation of leases or rental agreements for the Premises (or portions thereof) or individual units therein and advertising thereof; (ii) the day-to-day management and operation of the Premises (or any portion thereof); (iii) the collection of rents, income and profits from the Premises (or any portion thereof); (iv) the supervision of maintenance and restoration of the Premises (or any portion thereof); and (v) the disbursement of funds coming into the hands of the receiver(s) or the mortgagee in possession.
- (iii) Insofar as the rents, income and profits emanating from the Premises (or any portion thereof) permit and/or any loan hereinafter provided for all of, to: (i) restore the improvements to a good and rentable condition; (ii) make all units therein fit for sale, tenancy and occupancy; (iii) bring the Premises into compliance with all applicable laws and ordinances; and (iv) bring the Premises into full occupancy, by steps which may include, without limitation, entering into construction, architects and maintenance contracts, obtaining required governmental permits, advertising the Premises (or any portion thereof) for rent and all other actions which the receiver(s) or the mortgagee in possession deem requisite to avoid losses occasioned by waste of the Premises (or any portion thereof) or failure to restore and maintain the Premises in good and rentable condition at full occupancy.
- (iv) To obtain from Mortgagee and/or the agents, servants, employees and officers of Mortgagee, and all other parties in interest, all leases, insurance contracts,

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- maintenence contracts, employment records and all other documents, books and records necessary for, or incidental to, holding, operating and maintaining the Premises (or any portion thereof).
- (v) To obtain a court order that directs and orders Mortgagee and any and all Premises obligors (such as tenants, contractors, architects, suppliers, materialmen, servicers and managers of the Premises) to honor the status of the receiver(s), or the mortgagee in possession as such, and to remit to the receiver(s) or the mortgagee in possession any security deposits relating to the Premises (or any portion thereof) and all rents and profits collected on or after the date the receiver(s) or the mortgagee in possession are appointed to take control of the Premises (or any portion thereof), immediately upon notice of the appointment of said receiver(s) or the mortgagee in possession, and to recognize, upon request, the receiver(s) or the mortgagee in possession, as the appropriate successors-in-interest to Mortgagee.
- Mortgagee will pay to the Mortgagee upon demand all expenses, including receivers' fees, reasonable attorneys' fees, costs and agents' compensation, advanced by the Mortgagee and incurred pursuant to the provisions contained in this paragraph, and all such unpaid expenses shall be (1) a lien against the Premises, (2) added to the principal amount of the Liabilities and (3) payable on demand with interest at the Default Rate from and including the date each such advance is made.
- (c) Rights of a Secured Party with respect to the Collateral.
- (i) **General.** Upon and after any Event of Default, the Mortgagee shall have all of the remedies of a Secured Party under the Code with respect to the Collateral, including, without limitation, the right and power to sell, or otherwise dispose of, the Collateral, or any part thereof, and for that purpose may take immediate and exclusive possession of the Collateral, or any part thereof, and, with or without judicial process, may enter upon any premises on which the Collateral, or any part thereof, may be situated and remove the same therefrom without being deemed guilty of trespass and without liability for damages thereby occasioned, or, at the Mortgagee's option, the Mortgagee shall assemble the Collateral and make it available to the Mortgagee at the place and at the time designated in the demand.
- (ii) **Sale of Collateral.** The Mortgagee shall be entitled to hold, maintain, preserve and prepare the Collateral for sale. The Mortgagee, without removal, may render the Collateral unusable and dispose of the Collateral either on the premises where located or at any other location which the Mortgagee deems necessary, advisable, desirable, expedient, convenient or proper. To the extent permitted by law, the Mortgagee expressly waives any notice of sale or other disposition of the Collateral and the exercise of any other right, privilege, authority, power or remedy of the Mortgagee existing upon or after an Event of Default, and to the extent any such notice is required and cannot be waived, the Mortgagee agrees that, as it relates to subparagraphs 3.02(c)(i) and 3.02(c)(ii) only, if such notice is mailed, postage prepaid, to the Mortgagee at least five (5) days before the time of the sale or disposition, such notice shall be deemed reasonable and shall fully satisfy any requirement for the giving of said notice.
- (iii) **Adjournment of Sale.** The Mortgagee may adjourn from time to time any sale of the Collateral by it to be made under or by virtue of this Mortgage by

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announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, the Mortgagee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.

(iv) Appointment of the Mortgagee as Lawful Attorney for the Mortgagee.

Upon the completion of any sale or sales of the Collateral made by the Mortgagee under or by virtue of subparagraph 3.02(c)(ii), the Mortgagee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the Collateral and rights sold. The Mortgagee is hereby irrevocably appointed the true and lawful attorney of the Mortgagee, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of all or any part of the Collateral and rights so sold and for that purpose the Mortgagee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, the Mortgagee hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. The power of attorney shall be deemed to be a power coupled with an interest and shall not be subject to revocation by the Mortgagee or its successor or assigns. Nevertheless, the Mortgagee, if so requested by the Mortgagee, shall ratify and confirm any such sale or sales by executing and delivering to the Mortgagee or to such purchaser or purchasers all such instruments as, in the judgment of the Mortgagee, may be necessary, desirable, convenient, expedient, proper or advisable for such purpose, and as may be designated in such request. Any such sale or sales, shall operate to divest all the right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Mortgagee in and to the property and rights so sold, and shall be a perpetual bar both at law and in equity against the Mortgagee and against any and all persons claiming or who may claim the same, or any part thereof from, through or under the Mortgagee.

(d) Allocation of Proceeds of Sale. The purchase money, proceeds or avails of any sale of the Collateral made under or by virtue of subparagraph 3.02(c)(ii), or the proceeds of a sale of the Premises pursuant to judicial proceedings to foreclose the lien hereof, together with any other sums which may be held by the Mortgagee under this Mortgage, shall be applied as follows:

First: To the payment of any and all costs and expenses incurred by Mortgagee in any judicial proceedings instituted by Mortgagee to foreclose the lien hereof, or in any sale of the Collateral (and of any judicial proceeding in wherein the sale of the Collateral may be made), including, but not limited to, attorneys' fees, and of all expenses, liabilities and advances made or incurred by the Mortgagee under this Mortgage, and of all taxes and assessments, together with interest at the Default Rate on all advances made by the Mortgagee.

Second: To the payment of the whole amount then due, owing or unpaid upon the Note for principal and interest, with interest on the unpaid amount at the Default Rate or the rate specified in the Note, whichever is greater, from the due date of any such payment until the same is paid.

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3.04 The Mortgagor's Waivers. To the extent that such rights may then be lawfully waived, the Mortgagor hereby covenants that it will not at any time insist upon or plead, or in any manner whatever claim or take any benefit or advantage of (i) any stay or extension or moratorium law now or at any time hereafter in force; (ii) any law now in force or at any time hereafter made or enacted providing for the valuation or appraisal of the Premises or any part thereof prior to any sale or sales thereof to be made pursuant to any provision herein contained, or pursuant to the decree, judgment or order of any court of competent jurisdiction; and (iii) any law now or at any time hereafter made or enacted granting a right to redeem the property so sold or any part thereof. To the extent permitted by law, the Mortgagor expressly waives for itself and its successors and assigns and on behalf of each and every person acquiring any interest in or title to the Premises or any part thereof, subsequent to the date of this Mortgage, all benefits and advantages of any such law or laws; and covenants that it will not invoke or utilize any such law or laws or otherwise hinder, delay or impede the exercise or execution of any right, privilege, authority, power or remedy herein granted and delegated to the Mortgagee, but will suffer and permit the exercise or execution of every such right, privilege, authority, power and remedy as though no such law or laws have been made or enacted.

(g) Forbearance by the Mortgagee Not a Waiver. No delay or omission to exercise any right, privilege, authority, power or remedy accruing hereunder shall impair any such right, privilege, authority, power or remedy or shall be construed to be a waiver of any Event of Default, or an acquiescence therein, nor shall the giving, taking or enforcement of any other additional security, collateral or guaranty for the payment of the Liabilities operate to prejudice, waive or affect the security of this Mortgage or any rights, privileges, authorities, powers or remedies hereunder; nor shall the Mortgagee be required to first look to, enforce, or exhaust such other or additional security, collateral or guaranties.

(f) Mortgagee May Acquire Premises. In the event the Premises are sold pursuant to any action instituted by the Mortgagee to foreclose the lien hereof, the Mortgagee may bid for and acquire the Premises, or any part thereof, and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Liabilities the net sales price after deducting therefrom the expenses of the sale and the cost of the action and any other sums that Mortgagee is entitled to deduct pursuant to the terms of this Mortgage.

(e) Remedies Cumulative. No remedy herein conferred upon or otherwise available to the Mortgagee is intended to be or shall be construed to be exclusive of any other remedy or remedies; but each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder, or now or hereafter existing at law or in equity or by statute.

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

Third: To the payment of any other sums required to be paid by the Mortgagor pursuant to any provisions of this Mortgage, of the Note, or any other instrument constituting additional security for the Liabilities or of any other document related thereto.

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- 4.01 Taxation of the Liabilities and the Mortgage. If at any time before the Liabilities are fully paid, any law be enacted, deducting from the value of the Premises, for the purposes of taxation, any lien thereon, or revising or changing in any way the laws now in force for the taxation of mortgages or bonds, or the debts secured thereby, for state or local purposes, or the manner of collection of such taxes, so as to affect adversely this Mortgage or the Liabilities, at the option of the Mortgagee, become due and payable upon notice from the Mortgagee to the Mortgagee. If any such law should be enacted, and to the extent permitted by such law, the Mortgagee shall pay to the Mortgagee the amount of any such deduction from the value of the Premises or the amount of any such tax. This paragraph does not apply to general income taxes imposed on the Mortgagee as a result of income from the interest on the Liabilities.
- 4.02 Marshaling of Assets. The Mortgagee on its own behalf and on behalf of its successors and assigns hereby expressly waives all rights to require a marshaling of assets by the Mortgagee or to require the Mortgagee, upon a foreclosure, to first resort to the sale of any portion of the Premises which might have been retained by the Mortgagee before foreclosing upon and selling any other portion as may be conveyed by the Mortgagee subject to this Mortgage.
- 4.03 Partial Release. Without affecting the liability of any other person for the payment and performance of any of the Liabilities (including the Mortgagee should it convey the Premises) and without affecting the priority of the lien hereof upon any property not released, the Mortgagee may, without notice, release any person so liable, extend the maturity or modify the terms of any such obligation, or grant other indulgences, release or reconvey or cause to be released or reconveyed at any time all or any part of the Premises, take or release any other security or make compositions or other arrangements with debtors. The Mortgagee may also accept additional security, either concurrently herewith or hereafter, and sell same or otherwise realize thereon either before, concurrently with, or after sale hereunder.
- 4.04 Non-Waiver. By accepting payment of any sum secured hereon after its due date or late performance of any of the Liabilities, the Mortgagee shall not waive its right against any person obligated directly or indirectly for the payment and/or performance of any of the Liabilities either to require prompt payment when due of all other sums so secured declare an Event of Default for failure to make such prompt payment. No exercise of any right, privilege, authority, power or remedy by the Mortgagee hereunder shall constitute a waiver of any other right, privilege, authority, power or remedy herein contained or provided by law. No delay or omission of the Mortgagee in the exercise of any right, privilege, authority, power or remedy accruing hereunder or arising otherwise shall impart any such right, privilege, authority, power or remedy, or be construed to be a waiver of any Event of Default or acquiescence therein. Receipts of rents, awards and any other money or evidences thereof, pursuant to the provisions of this Mortgage, and any disposition of the same by the Mortgagee shall not constitute a waiver of the right of foreclosure by the Mortgagee upon or after any Event of Default.

MISCELLANEOUS TERMS AND CONDITIONS

ARTICLE IV

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Certified Grocers Midwest, Inc.
One Certified Drive
Hodgkins, Illinois 60525

(a) If to the Mortgagee, at:

4.09 Notices. All notices required or permitted hereunder shall be in writing, signed by the party or an officer of the party giving notice, and shall be deemed to have been given when delivered by personal delivery or by Federal Express or similar courier service, when transmitted by facsimile transmission, or when deposited in the United States mail, registered or certified, return receipt requested, with postage prepaid, addressed as follows:

4.08 Successors in Interest. This Mortgage applies to, inures to the benefit of, and is binding not only on the parties hereto, but on their respective heirs, executors, administrators, successors and assigns. All obligations of the Mortgagee hereunder are joint and several. The term "Mortgagee" shall mean the holder and owner, including pledges, of the liabilities, whether or not named as the Mortgagee herein.

4.07 Severability. 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 or the application thereof to any party or circumstance shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition without invalidating the remainder of such provision or any other provisions of this Mortgage or the application of such provisions to other parties or circumstances.

4.06 Headings and Interchangeability. The headings of articles and paragraphs contained in this Mortgage are merely for convenience of reference and shall not affect the interpretation of any of the provisions of this Mortgage. Whenever the context so requires, the plural shall include the singular and vice versa, the masculine shall include the feminine and the neuter, the feminine shall include the masculine and the neuter, and the neuter shall include the masculine and the feminine.

4.05 Protection of Security Upon the Mortgagee's Failure. Should the Mortgagee fail to make any payment or to perform any covenants as herein provided, the Mortgagee (but without obligation so do and without notice to or demand upon the Mortgagee and without releasing the Mortgagee from any obligation hereof) may: make or do the same in such manner and to such extent as the Mortgagee may deem necessary, advisable, desirable, expedient, convenient or proper to protect the security hereof, the Mortgagee being authorized to enter upon the Premises for such purposes; commence, appear in and defend any action or proceeding purporting to affect the security hereof or the rights, privileges, authorities, powers or remedies of the Mortgagee; pay, purchase, contest, or compromise any encumbrance, charge or lien which in the sole judgment of the Mortgagee is or may become prior or superior hereto and, in exercising any such power, incur any liability and expend whatever amounts in its absolute discretion it may deem necessary, advisable, desirable, convenient or proper therefor, including, but not limited to, cost of evidence of title and attorneys' fees. Any expenditures in connection herewith, together with interest thereon at the Default Rate, shall constitute part of the liabilities secured by this Mortgage.

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4.16 Execution by Mortgagee. This Mortgage is executed by Parkway Bank and 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 or in the Note contained shall be construed as creating any liability on Parkway

4.15 Attorneys' Fees. As used herein, attorneys' fees shall be and mean the normal hourly rate charged by the attorneys (and their staff) selected by Mortgagee multiplied by the actual number of hours spent by such attorneys (and their staff) on such matters.

4.14 Future Advances. Upon request of Mortgagee, the Mortgagee, at Mortgagee's sole option prior to discharge of this Mortgage, may make Future Advances to the Mortgagee. Such Future Advances, with interest thereon, shall be secured by this Mortgage when evidenced by promissory notes stating that said notes are secured hereby.

4.13 Mortgagee's Copy. The Mortgagee shall be furnished a conformed copy of the Note and of this Mortgage at the time of execution or after recording hereof.

4.12 Subrogation. The Mortgagee shall be subrogated to all liens, although released of record, which are paid out of the proceeds of any loan secured by this Mortgage.

4.11 Governing Law. This Mortgage shall be construed according to and governed by the laws of the state of Illinois.

4.10 Modifications. This Mortgage may not be amended, modified or changed nor shall any waiver of any provision hereof be effective, except only by an instrument in writing and signed by the party against whom enforcement of any waiver, amendment, change, modification or discharge is sought.

or to such other address as either party may designate for itself by notice given to the other party from time to time in accordance with the provisions hereof.

JVS Leasing, Inc.
6226 West Roosevelt Road
Oak Park, Illinois 60304
Attention: Joe Salamone
Facsimile: _____
with a copy to:
Parkway Bank and Trust Company
4800 North Harlem Avenue
Harwood Heights, Illinois 60656
Attention: Land Trust Department
Facsimile: (708) 867-5658

Attention: President
Facsimile: (708) 529-3815

(b) If to the Mortgagee, at:

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The Trustee in executing this document SPECIFICALLY EXCLUDES all references to any environmental condition of the premises whether under the ILLINOIS ENVIRONMENTAL PROTECTION ACT or otherwise. The beneficiary of this Trust, as management and control of the premises and as such, has the authority on its/their own behalf to execute as environmental representative but not as agent for or on behalf of the Trustee.

PARKWAY BANK & TRUST COMPANY, as Trustee

By: Nancy J. ...
 Vice President and Trust Officer

Ass: Assistant Trust Officer

Bank and Trust Company personally to pay the Note or any interest that may accrue thereon, or any indebtedness accruing hereunder, or to perform any covenant either express or implied herein contained, all such liability, if any, being expressly waived by every person now or hereafter claiming any right or security hereunder. Nothing contained in this Section shall modify or discharge the personal liability of any guarantor or any person under or by virtue of the Guaranty or any of the other Loan Documents. Parkway Bank and Trust Company, by its execution hereof on behalf of the Mortgagee represents and warrants that it possesses full power and authority to execute this instrument. Any representations and warranties of the mortgagee are made upon the direction of the beneficiaries.

IN TESTIMONY WHEREOF, the Mortgagee has caused these presents to be executed in its name on the day and year first above written.

upon the direction of its beneficiaries

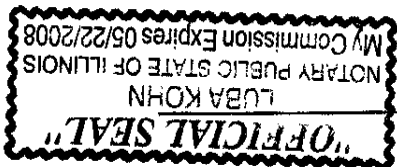
THE MORTGAGOR HEREBY DECLARES AND ACKNOWLEDGES THAT THE MORTGAGOR HAS RECEIVED, WITHOUT CHARGE, A TRUE COPY OF THIS MORTGAGE.

Vertical text on the left margin: www.cookcountyclerk.com

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Notary Public
My commission expires

Luba Kohn

Given under my hand and Notarial Seal this 4th day of Oct., 2004.

I, Luba Kohn, a Notary Public in and for the County and State
 of Illinois, that the above named Diane Reszowski and
Diane Reszowski, Vice President & Id and Asst. Trust Officer, respectively,
 as Trustee, and personally known to me to be the same persons whose names are
 subscribed to the foregoing instrument as such Vice President & Id and Asst. Trust Officer
 appeared before me this day in person and acknowledged that they
 signed and delivered the said instrument as their own free and voluntary act and as the free and
 voluntary act of said corporation as Trustee for the uses and purposes therein set forth.

STATE OF ILLINOIS)
 COUNTY OF Cook)
 ss.:)

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ADDRESS: 3701-23 NORTH HARLEM AVENUE, CHICAGO, ILLINOIS

P.I.N.: 13-19-116-004 AND 13-19-116-005

LOTS 6 AND 7 IN BLOCK 9 IN W.F. KAISER AND COMPANY'S ADDISON HEIGHTS
SUBDIVISION OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 19,
TOWNSHIP 40 NORTH, RANGE 13 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN
COOK COUNTY, ILLINOIS

LEGAL DESCRIPTION

EXHIBIT A
TO
MORTGAGE ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

www.cookcountyil.gov

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NONE

SECURITY INTERESTS, LIENS AND ENCUMBRANCES AGAINST THE COLLATERAL

MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

TO

EXHIBIT C

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EXHIBIT B
TO
MORTGAGE, ASSIGNMENT OF RENTS AND SECURITY AGREEMENT

LIENS, CHARGES AND ENCUMBRANCES AGAINST THE PREMISES

1. Real Estate Taxes not yet due and payable.
2. Easements, Covenants, Conditions and Restrictions of Record
3. The First Mortgage securing a principal sum not exceeding \$1,356,556.